

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5841 of 2020

Khageshwar Patel S/o Ramsingh Patel Aged About 55 Years R/o Karighati P.S.
Sariya, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate Raigarh, District Raigarh
Chhattisgarh. Related Out Post Kanakbira The Station House Officer, Under
Police Station- Sarangarh, District-Raigarh Chhattisgarh., District : Raigarh,
Chhattisgarh

---- Respondent

For Applicant	:	Shri M.K. Jaiswal, Advocate
For State	:	Shri Alok Bakshi, Addl. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/10/2020

Heard.

1. The applicant is arrested in connection with Crime No.492/2020 registered in Police Outpost- Kanakbira, P.S.- Sarangarh, District- Raigarh (CG) for alleged commission of offence under Section 376 IPC.
2. Case of the prosecution, in brief, is that the applicant committed rape on the prosecutrix in her house at about 11:00 in the morning when she was all alone at home.
3. Learned counsel for the applicant would submit that the prosecutrix has made false allegation of rape against the present applicant. He would submit that the prosecutrix made out a story of rape only when the prosecutrix and the present applicant were found in compromising position by son of the prosecutrix who suddenly came back home. Learned counsel for the applicant would further submit that there are no sign of any struggle,

resistance or any injury on any part of the body of the prosecutrix and she being a major lady, had been a case of forceful sexual intercourse, she would definitely offer some resistance. He further submits that FIR has been delayed by about five days for which also, there is no explanation stated either in the FIR or in the diary statement. Therefore, the applicant may be granted bail.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that the prosecutrix has clearly stated that the applicant entered the house and when she was all alone at home, he took undue advantage of this situation and committed rape on her and when she tried to cry for help, her mouth was gagged and at that time, her son arrived in the house and the incident was immediately disclosed. Therefore, delay of five days would not matter. It is next submitted that in the circumstances, as the prosecutrix was all alone at home, it is not necessary that there should be any injury on any part of the body.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix that the applicant committed sexual intercourse against her wishes and without her consent, present is not a fit case for grant of bail.
6. The application is accordingly rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge