

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 09-10-2020

Order delivered on 14-10-2020

MCRC No. 5690 of 2020

1. Vikash Kindo S/o Gulab Kindo, Aged About 28 Years R/o Fhulpur, Kudri Nala, P.S. Charcha, District Koriya Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station Charcha District Koriya Chhattisgarh

---- Respondent

For Applicant Mr. Pushkar Sinha, Advocate

For Respondent /State Mr. K.K. Singh, Govt. Advocate

(Proceedings through Video Conferencing)

Hon'ble Mr. Justice Prashant Kumar Mishra

Order On Board

1. Heard.
2. The applicant has preferred this first bail application under Section 439 of CrPC, as he is arrested in connection with Crime No.53/2019, registered at Police Station Charcha, Koriya (CG), for the offence punishable under Sections 376 & 450 of the Indian Penal Code.
3. Applicant has allegedly committed forcible sexual intercourse with the prosecutrix, aged about 68 years. The incident happened at about 7.00 pm on 21-3-2019 for which First

Information Report (FIR) was lodged at about 12.30 pm on the very next day i.e. 22-3-2019.

4. Learned counsel for the State, *per contra*, would oppose the bail application.
5. Albeit rape with an elderly woman, who is a sexagenarian, is an unusual incident, however, as per the diary statement of the prosecutrix the applicant was in a state of intoxication at the time of incident and the medical evidence is not totally negative, though not definitive, but it does not also rule out rape as the Doctor who has examined the prosecutrix says that '*patient may have undergone forcible sexual intercourse*'.
6. It is also to be seen that when the applicant was fleeing away from the house of the prosecutrix after performing sexual intercourse he met Premvati, daughter-in-law of the prosecutrix, on the way and has manhandled her for which she was also sent for medical examination and she is found to have sustained some injuries.
7. Considering the seriousness of the offence and the nature of evidence available on record, this Court is not inclined to grant bail to the applicant at this stage.
8. Accordingly, the bail application is rejected. However, the applicant would be at liberty to revive the prayer for grant of bail after examination of the prosecutrix.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri