

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6147 of 2020**

- Prakash Kumar Joshi S/o Shri Mannu Lal Joshi Aged About 18 Years R/o Village Juda, Thana And Tahsil Kasdol District Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- **Petitioner****Versus**

1. The State Of Chhattisgarh Through The Station House Officer Police Station Kasdol , Police Outpost Lawan, District Balodabajar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Omprakash Miri S/o Shri Biselal Miri Aged About 40 Years By Caste Satnami , R/o Village Juda, Tahsil Balodabajar , District Balodabajar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- **Respondents**

For Applicant	:	Shri Sunil Sahu, Advocate
For Respondent/State	:	Shri Gagan Tiwari, Dy.GA

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****08/10/2020**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.834/2019 registered at Police Station Kasdol, Police Outpost-Lawan, District Balodabajar-Bhatapara for the offence punishable under Section 341, 354, 376 of the IPC and Section 4 & 8 of the POCSO Act. The applicant was arrested on 29-07-2020.
2. Prosecution case is that the applicant dragged the prosecutrix into lonely place and committed rape on her.
3. Learned counsel for the applicant would argue that the story of commission of offence of rape is an afterthought one, because no specific statement of actual commission of offence of rape has been given by the prosecutrix. He submits that the prosecutrix has stated that she fainted and merely because, her clothes were taken out, she assumed that rape might have

been committed on her. It is also submitted that except Section 354 of IPC, no other case is made out against the applicant. It is lastly submitted that in this case, investigation is complete, charge sheet has been filed and the fact that the applicant is in jail since 29-07-2020, he may be granted bail.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that the prosecutrix has clearly stated regarding act of the applicant throwing the prosecutrix on the floor, removing her clothes and then she fainted. It is submitted that in her statement, the prosecutrix has stated that she was subjected to sexual intercourse as she was feeling pain in her vagina. In these circumstances, learned State counsel submits that the applicant is not entitled to bail.

5. Taking into consideration the submission of learned counsel for the parties and the overt act alleged to have been committed by the applicant, the present does not appear to be a fit case for grant of bail.

6. Accordingly, the bail application is rejected.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge