

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6893 of 2020**

- Liman Diwan S/o Padum Singh Diwan, aged about 30 years, R/o Village Mohtara, Police Station Panduka District Gariyaband C.G.

-----Applicant**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station Magarlod, District Dhamtari, Chhattisgarh

---- Respondent

For Applicant	:	Mr. H.A.P.S. Bhatia, Advocate on behalf of Mr. Anil Gulati, Advocate
For Respondent	:	Mr. Siddharth Dubey, Dy.Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu**ORDER****07/12/2020**

1. Applicant has preferred this application under Section 439 Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.126/2020 registered at Police Station Magarlod, District Dhamtari (CG) for the offence punishable under Sections 376, 506 IPC.
2. Case of the prosecution in brief is that on 15.07.2020 when husband of prosecutrix was on his work at Rice mill, applicant came to her house at about 02:00 pm who is brother-in-law of her sister. Applicant proposed her to take her to temple at Kurud upon which the prosecutrix accompanied him. On the way applicant proposed her to visit his house at Mohtara upon which she walked along with him from Kurud. They took lift on a tractor and went up to Megha from where they again took lift on another tractor and

reached Magarlod. When they were walking towards village Panduka, on account of late night, they stayed near unmanned *dhaba* and slept within the fire place of said *dhaba* and during that time applicant committed intercourse with her. Applicant has given threat to her not to disclose the incident to anyone. In the morning at about 04:00 am they started walking for the village of her maternal grandmother and reached village Kholapadi at about 06:30 am. Applicant dropped her on the road and went away. She intimated the incident to her husband on 17.07.2020, thereby the First Information Report (F.I.R.) was lodged.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the offence. As per the case of the prosecution itself shows that prosecutrix aged about 27 years voluntarily accompanied the applicant to visit the temple and on the way she consented to visit the house of applicant for 2-3 days. She has not intimated the fact of going to another village to the house of applicant to her husband. She stayed in the night at unmanned place *dhaba* along with the applicant, no external injuries have been found on the person of the prosecutrix which itself is sufficient to show that the allegation levelled by the prosecutrix against the applicant is false and frivolous. Applicant has not committed any offence as alleged against him.
4. On the other hand, Mr. Siddharth Dubey, learned deputy Government Advocate for the State opposes the submission made by the learned counsel for the applicant and submits that it is the applicant himself who visited to house of prosecutrix at Kurud and asked her to come to his house and on the way applicant forcefully committed intercourse with the prosecutrix.
5. I have heard learned counsel for the counsel on both the sides and also perused the case diary.

6. Taking into consideration the entirety of facts, nature of allegation made by the prosecutrix that she accompanied the applicant even though he was in intoxicated condition (as per the statement under Section 164 of CrPC), agreed to stay with him at unknown place at Tendubhata in a vacant *dhaba* during night. Further taking into consideration no external injuries were found on the person of the prosecutrix, charge-sheet has been filed, applicant is in jail since 15.08.2020, without commenting upon merits of the case, I am inclined to allow the application.
7. Accordingly, the bail application is allowed. It is directed that the applicant be released on regular bail upon furnishing a bail bond in the sum of Rs.10,000/- with one surety in the like sum to the satisfaction of the Court below concerned, he be released on bail for his appearance before the Court below concerned as and when directed.
8. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge