

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 256 of 2021**

Deepak Agrawal, S/o. Jagdish Agrawal, aged around 45 years, R/o. Ward No. 3, Rajapara, Sakti, P.S. - Sakti, Tahsil – Sakti, District – Janjgir-Champa (C.G.)

---- Applicant

Versus

State of Chhattisgarh, through : Station House Officer, Police Station – Sakti, District – Janjgir-Champa (C.G.)

---- Respondent

For Applicant	: Mr. Hari Agrawal, Advocate
For Respondent/State	: Mr. Gurudev I. Sharan, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**12/04/2021**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.58/2020, registered at Police Station – Sakti, District – Janjgir-Champa (C.G.) for the offence punishable under Section 114, 366A, 376 (2) (d) of the Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act..
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. He is in jail since 07.11.2020. The name of this applicant has not appeared in the FIR and the first statement given by the prosecutrix. This applicant was identified after nine months from the date, the FIR was lodged on 18.02.2020. The identification of the applicant is doubtful, therefore,

there is no case against this applicant. It is submitted that one of the co-accused person has been granted bail by the Court below. Hence, under these circumstances, it is prayed that this applicant be granted regular bail.

3. State Counsel opposes the bail application and the submissions made in this respect. It is submitted that it is a case of gang rape. The delay in identification of the applicant has occasioned because the applicant had absconded. One of the co-accused, who has been granted bail was not identified by the prosecutrix in the test identification parade, whereas, the other co-accused persons, who have been identified, they have not been granted bail and the case of the applicant is not different, therefore, he is not entitled for grant of bail.
4. The prosecutrix is virtually present through the Help Desk of High Court of Chhattisgarh and she has made statement of no objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. The prosecution case is this that the minor prosecutrix was abducted by co-accused Narendra Kumar Dewangan, who brought her to his own house and raped her for about 2-3 days. Subsequent to that on 17.02.2020, this applicant and three other co-accused persons, who were unknown to the prosecutrix raped her one by one. After lodging of FIR, the other accused persons were arrested but this applicant could not be arrested and he was in absconsion and the applicant was arrested on 07.11.2020. He was identified by the prosecutrix in the test identification parade as person, who has raped her.

7. Considered on the submissions made and the contents of the case diary. Diary statement of the prosecutrix is direct against this applicant and other co-accused persons and it is certainly a case of gang rape, hence, looking to this evidence and the gravity of the offence, despite no objection statement of the prosecutrix, this Court is of the opinion that present is not a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge