

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 404 of 2021**

- Manmohan Banjare, S/o Shri Kunjram Banjare, aged about 34 Years, R/o Village Sambalpuri Police Station Belha, District Bilaspur, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through - Police Station Hirri, Bilaspur, District Bilaspur, Chhattisgarh.

----Non-applicant

For Applicant	Shri Dheerendra Pandey, Advocate.
For State	Smt. Seema Dixit, P.L.
For Objector	Shri Lav Kush Kumar Sahu, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****23/02/2021**

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.144/2019 registered at Police Station- Hirri, District Bilaspur, C.G. for the offence punishable under Sections 376, 34 of Indian Penal Code.
2. Case of the prosecution, in brief, is that on 16.09.2019 prosecutrix lodged a report alleging in it that on 15.09.2019 present applicant called her and told her to meet near Belha turn (mod). The prosecutrix went to the said place where the applicant alongwith other co-accused persons kidnapped her and took her to Chhuhi Khadan in Bolero vehicle where applicant on the point of knife

committed forcible sexual intercourse with her with the help of other co-accused persons. On report being lodged to the above effect, the aforesaid offence has been registered against the present applicant.

3. Learned counsel for the applicant submits that Rajesh Daharia is the main accused person in this case and due to previous enmity with the present applicant, Rajesh Daharia has falsely implicated the present applicant by using the prosecutrix. He submits that no physical injury was found on the body of the prosecutrix regarding the recent rape. The applicant is in jail since 06.10.2020, charge sheet has already been filed and conclusion of the trial is like to take some time. Therefore, the applicant be released on bail.
4. Learned counsel for the State and Objector oppose the bail application filed by the present applicant and submit that gang rape has been committed by the present applicant and his companion after abducting the prosecutrix. They submit that there appears to be no reason for false implication of the applicant in this case. Accused and his companion also threatened the prosecutrix to withdraw her complaint. Co-accused persons in this case namely Santosh Banjare and Pundas Banjare are also absconded. Therefore, the present applicant is not entitled for bail.
5. Heard learned counsel for the parties and perused the case diary.
6. It is not disputed by both the parties that present applicant and Rajesh Daharia have a previous enmity and both have lodged a report against each other on number of occasions. But in this case,

prosecutrix has no relation with the Rajesh Deharia nor any reason to falsely implicate the present applicant alongwith Santosh Banjare and Pundas Banjare.

7. After lodging of prompt FIR, prosecutrix was got medically examined and slide was prepared and as per FSL report, semen and spermatozoa were found on the Articles A & B i.e. slide & peticoat. As per seizure of mobile phones, Mobile No.7089159705 belongs to the prosecutrix and Mobile No.9131051174 belongs to the present applicant. There is no relation of the prosecutrix with Rajesh Daharia nor is there any previous enmity with the applicant. As per call details of the applicant and the prosecutrix collected by the prosecution, on number of occasions they made call to each other.

8. Thus, in the totality of facts and circumstances of the case, the promptly lodged FIR by the prosecutrix naming the present applicant as perpetrator of the crime, the manner in which the crime was committed, the FSL report, the call details of the prosecutrix and the applicant, the entire material collected by the prosecution including the 164 Cr.P.C. statement of the prosecutrix, without commenting anything on merits of the case, this Court is not inclined to release the applicant on bail.

9. Accordingly, the bail application is rejected.

Sd/
Gautam Chourdiya
Judge