

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1383 of 2021

- Keshav Shukla S/o Shri Devishankar Shukla, Aged About 30 Years, R/o Village Mahamaya Colony, Near Rest House Ratanpur, P.S. Ratanpur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station Ratanpur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Achyut Tiwari, Advocate.

For State/Non-applicant – Shri B.P. Banjare, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-03-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 15-08-2020 in connection with Crime No.485/2020 registered at Police Station – Ratanpur, District Bilaspur, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4, 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The story of the prosecution is highly improbable as the applicant is a physically disabled person. The applicant has suffered various injuries in more than one major accidents and he had to undergo a number of surgeries for the same. Therefore, it is not possible for him to drive any vehicle or abduct any person or commit offence of rape. The documents are produced in support of the submission about disability of the applicant. The medical report that has been called from the jail authorities has been also in support of this applicant. Therefore, it is prayed that this applicant be enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the application and the submission made by learned counsel for the applicant, submitting that the applicant has suffered injuries in road accident and hence undergone surgeries in the year 2014-15. Although he has some medical difficulty at present, but the applicant is getting treatment in jail, which is clear from the report of the jail authority. According to the facts present in the case, the allegation against the applicant is of very serious nature in which it is alleged that this applicant abducted and committed gang rape with a minor victim/prosecutrix. Hence, this applicant is not entitled for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.

5. The case of prosecution is this, that on the date of incident the minor prosecutrix had been to the temple to quench her thirst, when the other accused, namely, Vishal Viswakarma forcefully caught hold of her and dragged her to a place where this applicant was waiting with a scooter. The prosecutrix was then by force taken on that scooter to a place where she was raped by Vishal Vishwakarma and this applicant one by one. The other accused persons photographed and videographed this incident and then the minor prosecutrix was released from their custody at night about 10:00 p.m. Subsequent to which, the FIR has been lodged.

6. Considered on the submissions. It is found that the gravity of the offence alleged against this applicant is at very high end. The applicant has undergone surgery and medical treatment in the year 2014 and 2015, at present there may be some requirement of his medical maintenance, but the documents and the medical report from the jail authorities do not disclose that the applicant is disabled person, neither is there any disability certificate in favour of the applicant issued by any authority. Hence, taking into consideration the gravity of the offence and that the applicant is getting medical treatment in jail as per his present physical ailment which does not show that he is disabled. Therefore, I

do not feel inclined to allow this application.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil