

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1467 of 2021**

- Chitreshwar @ Gangu Nirmalkar S/o Uderam Nirmalkar, Aged About 21 Years
R/o Village Udela, P. S. Simga, District Baloda Bazar-Bhatapara Chhattisgarh,
District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Simga,
District Baloda Bazar- Bhatapara Chhattisgarh, District : Balodabazar-
Bhathapara, Chhattisgarh

---- Respondent

For Applicant	:	Shri A. P. Sharma, Advocate
For Respondent/State	:	Shri Ravish Verma, GA

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****18/06/2021**

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.498/2019 registered at Police Station Simga, Baloda Bazar-Bharapara for the offence punishable under Section 363, 366, 376 of IPC and Section 4 & 6 of the POCSO Act. The applicant was arrested on 10-05-2020.
2. This is repeat bail application. Earlier bail application was dismissed on merits taking into consideration the diary statement of the prosecutrix recorded during investigation.
3. Prosecution case is that the applicant abducted the prosecutrix and she was taken to the house of the applicant, where she was subjected to sexual intercourse and at that time, the prosecutrix was less than 18 years of age.
4. Learned counsel for the applicant would argue that earlier bail application was dismissed taking into consideration the diary statement of the prosecutrix and now, she has been examined in the Court, in which, she has not supported the prosecution case by stating that because of dispute with the father, she has left the house and the applicant has not committed sexual intercourse with her, though she was working in the house of Naresh Sahu at Raipur, after leaving her house.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that at present, only prosecutrix has been examined and there are many other prosecution witnesses, who are yet to be examined and taking into consideration the seriousness of the offence, the bail application of the applicant may be rejected.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the prosecutrix has now been examined and further taking into consideration the submission of learned counsel for the applicant that the prosecutrix has not supported the prosecution case regarding allegation of commission of offence of rape on her by the applicant, the application is allowed.

6. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with two local surety of the like amount to the satisfaction of the concerned trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

SD/-
(Manindra Mohan Shrivastava)
Judge