

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.1931 of 2021**

- Ganesh Das S/o Sukhna Das Aged About 28 Years R/o Village Dakwa, Sadakpara , Police Chowki Bariyo, Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Police Chowki Bariyo, Police Station Rajpur , District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Amarnath Pandey, Advocate
For Respondent/State	:	Shri Anurag Verma, Panel Lawyer

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****06/08/2021**

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.38/2020 registered at Police Chowki Bariyo, P.S. Rajpur, District Balrampur-Ramanujganj for the offence punishable under Section 376/511, 323, 506, 450, 34 of the IPC and Section 8, 4/18 of the POCSO Act and Section-3(1)(W), 3(2)(V-ka) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The applicant was arrested on 09-03-2020.
2. This is repeat bail application. Earlier bail application was dismissed as withdrawn.
3. Prosecution case is that the applicant caught hold of the prosecutrix and dragged to his house and attempted to commit rape on her. It is stated that the prosecutrix belonged to Scheduled Tribe category and she is also minor.
4. Learned counsel for the applicant would submit that allegations levelled against the applicant are false and fabricated. Even according to the prosecutrix, no rape was committed on her and the prosecutrix, in her statement recorded under Section 164 of Cr.P.C., has clearly stated that she of her own willingness came to the house of the applicant and she was not forcibly taken by

the applicant. It is lastly submitted that the applicant is in jail since 09-03-2020 and till date, the trial has not been concluded, therefore, the applicant may be granted bail.

5. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that looking to the age of the prosecutrix, consent of the prosecutrix is immaterial and the prosecutrix also belongs to Scheduled Tribe category as also that the trial is still going on, therefore, the bail may not be granted to the applicant.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the nature of allegation and extent of criminal overt act alleged against the applicant as also the statement of the prosecutrix recorded under Section 164 of Cr.P.C. and further that the applicant has remained in jail since 09-03-2020 and trial is still not concluded, the present appears to be a fit case for grant of bail.

7. Accordingly, the application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with one 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