

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 1836 of 2021**

Chhabilal Kaiwartya S/o Purushottam Kaiwartya Aged About 23 Years R/o Sakrapali, Police Station Sarsiwa, District Baloda Bazar Bhatapara Chhattisgarh.

**---- Applicant****Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Sarsiwa, District Baloda Bazar, Bhatapara Chhattisgarh.

**---- Respondent**


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For the Applicant : Shri C.R. Sahu, Advocate.  
For the Respondent/State : Shri Sameer Uraon, G.A.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****ORDER****22.07.2021**

Heard.

1. This is the second bail application of the applicant. The first bail application of the applicant was dismissed on merits on 30.6.2020 in M.Cr.C. No. 1120 of 2020. The applicant has been arrested in connection with Crime No.404 of 2019, registered at Police Station – Sarsiwa, District – Baloda Bazar, Bhatapara, Chhattisgarh for the offence punishable under Sections 363, 366 and 376-D of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 8.12.2019 and has been falsely implicated in this case. The prosecutrix has been examined before the trial Court and she made a clear statement that this applicant was not the person who has raped her. Hence,

it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that there are other witnesses yet to be examined in the trial. Hence, no case is made out for grant of bail to the applicant.

4. The prosecutrix/ complainant is present before this virtual Court through the Help-Desk of the DLSA, Baloda Bazar. She made a statement that she has no objection in grant of bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. Earlier bail application has already been decided on merits by this Court, therefore, there is no requirement for consideration on merits. The only consideration is the change in circumstance.

7. Considered on the submissions. Perused the certified copy of the deposition of the prosecutrix filed alongwith the application and it is found that the prosecutrix has not stated against this applicant and she has been declared hostile. Hence, looking to this development and change in circumstance after rejection of the earlier bail application, I feel inclined to grant regular bail to the applicant.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

**Sd/-**

**(Rajendra Chandra Singh Samant)**  
Judge