

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1695 of 2021**

Hemlal Chouhan S/o Late Salikram Chouhan Aged About
57 Years R/o Baba Gelaram Nagar Devpuri Police Station
Tikrapara District Raipur Chhattisgarh

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer
Police Station Tikrapara District Raipur Chhattisgarh

---- Non-applicant

For Applicant : Shri Pradeep Singh Rathore, Advocate
For Non-applicant/State : Ms. Anjali Singh Chauhan, Panel Lawyer

(Proceedings through Video Conferencing)**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****12.07.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 28.01.2021 in connection with Crime No.30 of 2021 registered at Police Station Tikrapara, District Raipur (C.G.) for commission of the offence punishable under Section 376 of Indian Penal Code.
2. Case of the prosecution is that, on 28.01.2021 when Pushpa Jagat, mother of complainant came to her house and sleeping along with mother-in-law of Sheetal Chouhan in her room, present applicant who is father-in-law of Sheetal Chouhan entered into their room and committed forceful intercourse with her in the night at 2.30 am. Immediately,

after the incident, Pushpa Jagat came to the room of Sheetal Chouhan (her daughter) in night and intimated the incident. On the next day, when Sheetal Chouhan asked her father-in-law with regard to the commission of offence, he started fighting with her and thereafter, Sheetal Chouhan and Pushpa Jagat went to police station and lodged the report, based upon which, instant crime has been registered against the present applicant.

3. Shri Pradeep Singh Rathore, learned counsel for the applicant submits that absolutely false and frivolous case has been levelled against the present applicant. He further submits that it is not possible to make forceful intercourse when as per the complainant himself, she was sleeping in the room along with wife of the applicant. He further submits that the medical report does not support the case of the prosecution as in the opinion of the doctor, there is no sign of recent intercourse and opined that it can be clarified only after the report of vaginal slide. He lastly submits that applicant is in jail since 28.01.2021, hence, he may be enlarged on bail.
4. Ms. Anjali Singh Chauhan, learned Panel Lawyer representing the State while opposing the submissions made by learned counsel for the applicant submit that immediately after the incident, the prosecutrix intimated the fact of

commission of offence to her daughter who is sleeping in another room in the night itself. She further submits that the prosecutrix in her statement as well as Sheetal Chouhan (daughter-in-law of applicant) and Tikeshwar Chouhan (son of applicant) in their statement have stated with regard to commission of offence as alleged against the applicant, hence, he may not be entitled for grant of bail.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, statements recorded under Section 161 of Cr.P.C. of Sheetal Chouhan (daughter-in-law of applicant), Tikeshwar Chouhan (son of applicant), prosecutrix, prompt report made and further, alleged offence is said to have been committed by the applicant in his own house, I do not find it to be a fit case to enlarge the applicant on bail. Accordingly, bail application is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge