

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1825 of 2021

Order Reserved on : 31.05.2021

Order Delivered on : 07.06.2021

Krishnakant Shrivastava @ Sanju, S/o Late Santosh Kumar Shrivastava, Aged About 36 Years, R/o Village - Sakri, P.S. Sakri, District- Bilaspur (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through: Station House Officer, Police Station Sakri, District- Bilaspur (C.G.)

--- Respondent

For Applicant	:	Mr. Yogendra Chaturvedi, Advocate.
For State/ Respondent	:	Mr. Devesh Verma, Govt. Advocate.
For Objector	:	Mr. Vipin Singh, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

CAV ORDER

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested on 20.02.2021 in connection with Crime No. 352/2020, registered at Police Station- Sakri, District- Bilaspur (C.G.) for the offence punishable under Section 376 of I.P.C.
2. Case of the prosecution in brief is that the complainant/ prosecutrix lodged a report in Police Station Sakri to the effect that on 18.05.2017, the prosecutrix went to Anchal Beauty Parlor to take her sister-in-law (Nanad), who had gone for makeup on

event of her marriage, back at about 9:00 p.m. and the present applicant dragged her into a room and committed sexual intercourse with her. She tried to shout, but nobody could hear her as the room was closed with glass. The present applicant had threatened the prosecutrix about not to disclose the matter. The matter was reported to police station against the present applicant and offence under Section 376 of the I.P.C. has been registered against the present applicant.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. There is delay in lodging the FIR. There is dispute between the parties regarding the loan amount. The prosecutrix had advanced Rs. 50,000/- + Rs. 30,000/- (Total Rs. 80,000/-) as loan to the applicant. Though the entire loan amount has been returned by the applicant, but to receive more interest, false FIR has been lodged against him. Hence, it is prayed that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application and submits that there is clear allegation against the applicant regarding commission of offence. Hence, the application for grant of bail may be rejected.
5. Learned counsel for the objector also opposes the bail application filed by the applicant.
6. I have heard learned counsel for the parties and perused the case diary.

7. The prosecutrix in her statement recorded under Section 164 of the Cr.P.C. narrated the story about the incident which took place on 18.05.2017 in Anchal Beauty Parlor. The stand of the applicant that there is dispute between the parties regarding loan amount of Rs. 80,000/- which has been paid by the prosecutrix to the applicant and the same was repaid by the applicant, but to get higher interest, he has been falsely implicated in the crime in question, this may be defence of the applicant, which cannot be examined while deciding the bail application of the applicant. It is true that at this juncture, neither evidence nor circumstances is to be meticulously analysed in hair splitting manner by this Court, because it may prejudice investigation, enquiry and trial. Therefore, looking to the gravity of offence, statement recorded under Section 164 of the Cr.P.C. and the facts and circumstances of the case, it is not a fit case, in which, the applicant should be enlarged on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected. However, liberty is granted to the applicant to file afresh bail application after recording statement of the prosecutrix.

Sd/-
(Narendra Kumar Vyas)
Judge