

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1847 of 2021

Order Reserved on : 31.05.2021

Order Delivered on : 07.06.2021

Santosh Kumar Vishwakarma, S/o Shanker Vishwakarma, Aged About 30 Years, R/o Kumda Colliery, Police Station & Tahsil- Bishrampur, District- Surajpur (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through: The Station House Officer, Police Station Chirmiri, District- Koriya (C.G.)

--- Respondent

For Applicant	:	Mr. P. Chetan Kumar, Advocate.
For State/ Respondent	:	Mr. Devesh Verma, Govt. Advocate.
For Objector	:	Mr. Hemant Kumar Agrawal, 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 09.01.2021 in connection with Crime No. 13/2021, registered at Police Station- Chirmiri, District- Koriya (C.G.) for the offence punishable under Section 376 (2) (ढ) of I.P.C.
2. Case of the prosecution, in brief, is that the applicant has performed forcefully sexual intercourse on several occasions

with the prosecutrix, who is aged about 21 years and threatened her not to disclose about the incident to anyone otherwise, she has to face dire consequence. The prosecutrix has lodged a complaint, the matter has been investigated and on that basis, FIR has been lodged against the applicant and the offence under Section 376 (2)(b) of I.P.C. has been registered against the applicant.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. The prosecutrix and the applicant are known to each other because sister of the applicant has been married to family of the prosecutrix. As such, they have relatives and developed attraction to each other, which is not acceptable by the senior members of family and this situation has been fabricated in order to harass the applicant. It is further submitted that nothing has been stated by the prosecutrix regarding any sexual intercourse with her. The applicant is in jail since 09.01.2021, charge-sheet has already been filed and the trial may take sometime to conclude, 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 submitted 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 has also filed application for

objection for grant of bail to the applicant contending that the applicant had visited residence of the prosecutrix and stayed in the residence. On that day, the parents of the prosecutrix were not present in the home, therefore, taking advantage of that situation and ignoring the relation with the prosecutrix, the applicant grabbed and raped her around 10-11 p.m. The applicant threatened her that if she will tell anything about the incident, he will kill her.

6. It is further submitted that the prosecutrix moved to Raipur for taking coaching classes for the Company Secretary studies, then there also applicant visited the prosecutrix and developed physical relation with her without her consent and every time threatened to kill her thereafter, on 08.01.2021, FIR has been lodged against the applicant for committing offence under Section 376, 376(2)(6), 506 of IPC. Hence, the application for grant of bail may be rejected.
7. I have heard learned counsel for the parties and perused the case diary.
8. Considering the facts and circumstances of the case, material collected during the investigation by the prosecution, statement of the prosecutrix recorded under Section 164 of the Cr.P.C., though its authenticity or genuineness cannot be examined while considering the bail application filed by the applicant. It is quiet apparent regarding involvement of the applicant in the crime in question, therefore, it is not a fit case, in which, the applicant

should be enlarged on bail.

9. 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**

Arun