

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.2002 of 2021

- Rizvan Khan @ Tiblu Khan S/o Maqsood Khan Aged About 20 Years
R/o - Adarsh Nagar, Ward No. 06, Kawardha District - Kabirdham
Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Arakshi Kendra Kawardha District -
Kabirdham Chhattisgarh

---- Non-applicant

For Applicant	:	Mr. Basant Dewangan, Advocate.
For Non-applicant/State	:	Mr. Sameer Oraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

26-07-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 08.12.2020, in connection with Crime No.701/2020, registered at Police Station— Arakshi Kendra, Kawardha, District- Kabirdham, C.G. for offence punishable under Sections 341, 363, 366 and 376-DA and 506 of I.P.C. and under Sections 4 and 6 of POCSO Act and Section 3(2)(V) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act.
2. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The applicant is in jail since 08.12.2020. The co-accused persons namely Rajesh @ Rajendra @ Khelan and Avinash @ Chintu Dhurve have been granted bail. This applicant is also similarly placed. Therefore, he may be

enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the application and submissions made by the learned counsel for the applicant and submits that there is direct evidence present against this applicant regarding commission of offence of gang-rape with a minor victim, who is a member of Scheduled Tribe. Therefore, he has no entitlement for grant of bail.
4. Notice was issued to the complainant, which has been returned served.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, on the date of incident, the juvenile is conflict with law Rajesh @ Rajendra enticed the minor prosecutrix and had physical relation with her which amounts to the offence of rape. The other juvenile offenders namely Tushar @ Bhuru, Lokesh @ Loku Pali, Avinash @ Chintu and this applicant chased the juvenile Rajendra and the prosecutrix and then by putting the prosecutrix under threat, this applicant and all the three juvenile offenders raped her one by one and thus committed the offence of gang-rape with her. Hence, this case.
7. Considered on the submissions. The juvenile offenders Rajesh @ Rajendra and Avinash have been granted bail and on the consideration that they are juvenile offenders, which is not the case of this applicant, therefore, I do not feel inclined to allow this application.
8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge