

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2093 of 2021**

- Tarkeshwar @ Panu Rajak S/o Late Shri Vishwanath Aged About 30 Years R/o Bhatthapara, Surajpur, Police Station Surajpur, District Surajpur Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Ajak, Surajpur, District Surajpur Chhattisgarh.

---- Respondent

 For Applicant : Shri Anil Gulati, Advocate
 For respondent/State : Shri Shrikant Kaushik, Panel Lawyer

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****29.10.2021.**

1. This is first bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested on 23.01.2020 in connection with Crime No.07/2020 registered at Police Station AJAK, Surajpur, Distt. Surajpur (C.G.), for the offence punishable under Sections 363, 366, 376(2-ढ), 346 of the Indian Penal Code, 1860 (for short 'IPC'), Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

2. Brief facts of the case are that the applicant abducted minor victim/prosecutrix, who belongs to Scheduled Caste

category, and repeatedly committed rape with her. On being reported by the victim/prosecutrix on 09.01.2020 in Police Station Pratappur, Distt. Surajpur, FIR under Sections 363, 366, 376 of the IPC, Section 3(2)(v) of the Atrocities Act, and Section 6 of the POCSO Act has been registered against the applicant. After investigation, charge sheet has been filed against the applicant which is pending before the trial Court.

3. Learned counsel for the applicant submits that this is a false and fabricated case filed against the applicant. The victim/prosecutrix and the applicant are wife and husband, they were residing together for a long time, but due to some dispute between them, the victim/prosecutrix has lodged FIR against the applicant. He further submits that the victim/prosecutrix was not minor at the time of the incident. Deposition of the victim/prosecutrix and her father has already been recorded in the trial Court, in which also they have stated the aforesaid facts. The applicant is in jail since 23.01.2020 and conclusion of the trial will take considerable time, therefore, the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State while opposing the bail application submits that it is a case of kidnapping and rape of prosecutrix, who was minor at the time of incident. The trial is going on. In the Court statement also the victim/prosecutrix has stated that the applicant had taken her

forcibly and sexually exploited her. Hence, the applicant is not entitled for grant of bail.

5. I have heard learned counsel for both parties and perused the case diary and the material available on record.

6. Considering the facts and circumstances of the case, detention period of the applicant and also taking into consideration the deposition of the victim/prosecutrix and her father in the trial Court and also considering the totality of the facts of the case, I feel inclined to allow the bail application. Therefore, the application under Section 439 of the CrPC is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs.50,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.

Certified copy as per rules.

Sd/-

(N.K. Chandravanshi)
JUDGE