

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2351 of 2021**

Somnath Mandavi S/o Balram Mandavi, Aged About 28 Years
R/o Village Siharinala, Dihipara, Tahsil Narharpur, District
North Bastar Kanker Chhattisgarh

---- Applicant**Versus**

The State of Chhattisgarh Through Station House Officer,
Police Station Kanker, District North Bastar Kanker
Chhattisgarh

---- Non-applicant

For Applicant : Shri Amit Kumar Sahu, Advocate
For Non-applicant/State : Shri D.P. Singh, Dy. Advocate General

*(Proceedings through Video Conferencing)***Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****21.05.2021**

1. This is second application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 08.07.2020 in connection with Crime No.184 of 2020 registered at Police Station Kanker, District North Bastar Kanker, Chhattisgarh for commission of offence punishable under Sections 376, 366, 323, 506, 450 and 376(2)(n) of the Indian Penal Code. First bail application was dismissed as withdrawn.

2. Case of the prosecution, in brief, is that, the applicant was working as Mason and prosecutrix was working as labourer in under-construction building. The applicant stated that he is having love with her and visited her house on number of occasions. On one day, applicant came to her house in the night and knocked the door. She opened the door, thereafter, applicant made physical relationship with her for the first time. She was residing in a house along with parents and younger brother. Applicant visited the house of prosecutrix in night on number of occasions and made physical relations. On 23.06.2020, applicant came to her house in the night at about 2.00 AM, knocked the door and asked the prosecutrix to accompany her and thereafter, they went to village Manjhiathagaon where they stayed in a rented accommodation. There also, applicant made physical relations with her against her will. She intimated the case with her parents and came back to her house and lodged complaint against the present applicant.
3. Learned counsel for the applicant submits that bare perusal of contents of First Information Report and statement recorded under Section 164 of the Cr.P.C. would show that prosecutrix is consenting party, major girl, levelled false and frivolous allegation. He further submits that as per allegation itself, the prosecutrix was residing in her house along with her parents. As per allegations, the applicant visited her house in night and made physical relationship with her number of time, while parents of prosecutrix were sleeping in other room. He also submits that the prosecutrix with her own will, came out from her house without intimating to

her parents and accompanied applicant and started living with him in a rented house in other village.

4. On the other hand, learned State Counsel opposes the prayer for grant of bail and submits that in the statement recorded under Section 164 of the Cr.P.C., she has very specifically stated that both of them were working in under-construction building as Mason and labourer and due to relationship, applicant has visited her house in number of occasions in the night and committed intercourse with her. The statement also shows that applicant and prosecutrix have made physical relations in the night in the house of prosecutrix herself on many occasions. She was assaulted.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegation levelled against the present applicant and statement recorded under Section 164 of the Cr.P.C. read over by the State counsel, without commenting of merits of the case, I am inclined to release the applicant on regular bail.
7. Accordingly, second bail application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.

b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Vacation Judge

Yogesh