

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2475 of 2021

Kirtan Rathia, S/o. Loharsai Rathia, Aged About 30 Years, R/o. Village Barghat, Police Station Gharghoda, District Raigarh, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through Officer In Charge Police Station Gharghoda, District Raigarh, Chhattisgarh

---- Respondent

For Applicant : Mr. Ashutosh Mishra, Advocate

For Respondent : Mr. Siddharth Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

ORDER

20.07.2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.55/2021 registered at Police Station- Gharghoda, District Raigarh, for the offence punishable under Section 376 of Indian Penal Code.
2. As per the prosecution case, on 05.03.2021 when the prosecutrix went to answer the call of nature, the applicant caught hold of her and dragged her to a distance and thereafter near the burning place, thrice forceful sexual intercourse was committed and she was threatened if she discloses to anyone and after five days on 10.03.2021 the report was made.
3. Learned counsel for the applicant would submit that the age of the prosecutrix is 35 years, she was a consenting party because if she was dragged to a distance she could have raised alarm, having not done so, no case is made out. He further submits that the charge sheet has been filed, no further investigation is necessary and the

applicant is in jail since 10.03.2021; therefore, he may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Considering the fact that the charge sheet has been filed and the applicant is in jail since 10.03.2021 and further considering the statement of the prosecutrix, without any observation on merit, I am inclined to release the applicant on bail. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
6. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge