

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4379 of 2021**

Anil Kushwaha S/o Ayodhya Kushwaha Aged About 21 Years R/o Mendhari, Semariyapara, Police Station Basantpur, District Balrampur Ramanujganj Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Basantpur, District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For the Applicant : Shri Amarnath Pandey, Advocate.
For the Respondent/State : Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.08.2021**

Heard.

1. This is the Fifth bail application of the applicant. The first bail application of the applicant was dismissed for non-prosecution on 14.12.2018 in M.Cr.C. No. 8756 of 2018, the second bail application was dismissed on merits on 29.3.2019 in M.Cr.C. No. 1334 of 2019, the third bail application was dismissed as withdrawn on 21.11.2019 in M.Cr.C. No. 6595 of 2019 and the fourth bail application was again dismissed as withdrawn on 30.9.2020 in M.Cr.C. No. 4309 of 2020 with liberty to file an appeal under Section 14(A) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Subsequent to that, Cr.A. No. 934 of 2020 was filed by the applicant under Section 14(A) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, which has been decided and dismissed as withdrawn vide order dated 15.2.2021. The applicant has been

arrested in connection with Crime No.104 of 2017, registered at Police Station – Basantpur, District – Balrampur-Ramanujganj, Chhattisgarh for the offence punishable under Sections 363, 366, 376(2)(dha), 323, 376 (2)(jha), 368 and 342/ 34 of the Indian Penal Code, Sections 5(thu), 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since about 4 years and has been falsely implicated in this case. The material witnesses have been examined. It is also submitted that there is a clear view that under trial the persons who are languishing in jail without fault on their part should be granted regular bail, therefore, on the ground of delay in trial, this applicant be granted bail. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that earlier bail application of this applicant has been dismissed on merits. A number of witnesses have been examined in the trial and they have supported the prosecution case, therefore, no case is made out for grant of bail to the applicant.

4. Notice issued to the complainant/ informant has been returned served but there is no appearance or representation.

5. Heard counsel for both the parties and perused the case diary.
6. Considered the submissions and the facts present in this case. The only ground for consideration of this fifth bail application is that the trial of the applicant is getting delayed. It is found that a number of witnesses have been examined in the trial and the trial has been withheld because of the pandemic situation but now the Courts have started functioning, therefore, I do not feel inclined to grant regular bail to the applicant.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected. However, looking to the length of detention in jail of this applicant, the trial Court is directed to expedite the trial and conclude the same preferably, as far as practicable within a period of six months from the date of receipt of the copy of this order.

Sd/-

(Rajendra Chandra Singh Samant)
Judge