

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3369 of 2021**

- Kamlesh Kumar Sahu, S/o Shri Dadu Ram Sahu, Aged About 30 Years, R/o. Irrigation Colony, Baktara, Raipur, District- Raipur (Chhattisgarh).

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer - Police Station, Supela, District- Durg (Chhattisgarh).

---- Respondent

For Applicant	:	Mr. Shashank Thakur, Adv.
For Respondent/State	:	Mr. Vimlesh Bajpayi, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****30.06.2021**

1. Heard.
2. The accused/applicant has moved this second bail application under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 1196/2019 registered at Police Station- Supela, District- Durg, (C.G.) for the offence punishable under Sections 376(2)(D), 366, 394, 120B r/w 34 of IPC.
3. Earlier, the first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after examination of the prosecutrix vide order dated 17.09.2020 passed in MCRC No. 4928/2020 by this Court.
4. The prosecution story, in brief is that, it has been alleged that the prosecutrix was called from Bombay for dance performance in events. The present applicant and other co-accused persons have abducted the prosecutrix and looted one mobile and cash amounting to Rs.50,000/-, thereafter they committed forcible sexual intercourse with her. Based on this, offence has been

registered. Present applicant has been taken into custody on 06.12.2019.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that prosecution has failed to ensure the presence of the prosecutrix and till date five witnesses have been examined and they have not supported the case of the prosecution. The applicant is in jail since 06.12.2019, there is no likelihood of his case being decided in near future, therefore, the present appellant may be released on bail.
6. On the other hand, counsel for the State opposes the bail application submitting that the present applicant along with other co-accused committed gang rape with the prosecutrix, so, applicant did a very heinous crime and it is not a fit case to release him on bail.
7. I have heard learned counsel for the parties and perused the records.
8. Considering the totality of the facts and circumstances of the case, gravity of offence and quality of evidence, in particular the offence committed by the applicant is of serious in nature, at this stage, I am not inclined to release him on bail.
9. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is rejected.

**Sd/-
(Rajani Dubey)
Judge**