

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3432 of 2021

- Ajhar Chelak, S/o Maniram Chelak, Aged About 21 Years, Resident Of Village Tipni, Thana Thankhamhariya, District-Bemetara Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Thankhamhariya, District-Bemetara, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Sharmila Singhai, Sr. Adv. With Ms. Tanya Mondal, Advocate.
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For State/respondent	: Ms. Shivali Dubey, Panel Lawyer.
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Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

16/07/2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.173/2020 registered at Police-Station-Thankhamhariya, District-Bemetara(C.G.) for the offence punishable under Sections 327, 328, 506, 451 376, 109 of IPC and Section 4, 5/6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. There is no evidence to show that the applicant has raped to the minor prosecutrix. The prosecutrix in this case is major. Further, according to the opinion of

the examining doctor, the prosecutrix was habitual for sexual intercourse and no sign of recent intercourse were found. Charge-sheet has been filed. The statement of the prosecutrix under Section 161 CrPC mentions about her relation with applicant for about 5 months whereas she has made contradictory statement under Section 164 CrPC, hence, the whole prosecution story is doubtful, therefore, it is prayed that this applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that it is a case of commission of heinous offence in which the applicant conspired with the other co-accused persons to commit the offence of rape. It is further submitted that the applicant has criminal antecedent and there is a separate offence registered against him as crime No.174/2020 for offences under Section 506, 376 & 109 of IPC. The offence under Section 120B of IPC and offences under IT Act are also attracted according to the facts of this case, hence, looking to the gravity of offence, the application be rejected.
4. The prosecutrix is virtually present before this Court through the 'Help Desk' of DLSA, Bemetara on notice. She has stated that she has no objection in grant of bail to this applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that on 24.10.2020 applicant by putting the minor prosecutrix under threat, provided her with intoxicating substance directing her to serve the same with food to her parents and family members. The prosecutrix complied with the

direction. The parents and other family members of the prosecutrix became unconscious after the consumption of food. The applicant then with the help of other co-accused persons Komal, Manish, Tarachand, Harishchandra, Pradeep and Mohit enticed the prosecutrix to come to the house of co-accused Pradeep, where this applicant on pretext of marrying the prosecutrix had forceful physical relation with her and snapped some photographs and also threatened that he will make the photographs viral. The applicant continuously exploiting the prosecutrix by threatening her to make the photographs viral. Later on, the prosecutrix narrated the incident to her family members and thereafter the FIR has been lodged.

7. Considered on the submissions. There appears to be no reflection of consent of the prosecutrix and that there had been an affair between her and the applicant. Apart from that the details of the incident show, that the commission of offence was planned and executed by this applicant with the help of other co-accused persons and he has also a history of committing similar offence regarding which there is another offence registered against him. For these reasons, I do not feel inclined to allow the bail application of this applicant.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)

Judge