

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3560 of 2021**

Harish @ Chhotu S/o Late Dhanesh Dhruv Aged About 21 Years R/o Village Kumhi, Police Station Rajim District Gariyaband Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Magarlod, District Dhamtari Chhattisgarh.

---- Respondent

For the Applicant : Shri C.R. Sahu, Advocate.
For the Respondent/State : Shri Shakti Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.07.2021**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.58 of 2021, registered at Police Station – Magarlod, District – Dhamtari, Chhattisgarh for the offence punishable under Sections 363, 366, 376, 354, 506 and 307/34 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 14.2.2021 and has been falsely implicated in this case. In fact, it is a case of only outraging the modesty of the victim. The statements of the prosecutrix that was firstly recorded under Sections 161 and 164 of the

Cr.P.C. do not reveal about any incident of rape. Later on, the prosecutrix made a statement in the counselling of Child Welfare Committee that she was raped about one year before during the village fare by this applicant, therefore, this statement is already delayed about one year and there is no connection with the incident that has occurred on 9.2.2021. 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 although the prosecutrix has not made any statement about rape in the investigation under Sections 161 and 164 of the Cr.P.C. but after her statement before the Child Welfare Committee, the police has recorded supplementary statement under Section 161 of the Cr.P.C. in which there is a statement that she was raped by the applicant about one year before the present incident, 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. According to the prosecution case, on the night of 9.2.2021, this applicant abducted the minor victim on the point of knife and then asked her to marry. When the victim refused, the applicant threatened her and during that time the applicant kissed the victim on her cheek and then, he left the

victim in front of the house of her maternal grandfather and the FIR has been lodged subsequently. During investigation, the prosecutrix has made the statement about incident of rape that has occurred about one year prior to the date of incident.

7. Considered the submissions and the facts present in this case. In the investigation of the present incident there is revelation of the previous incident regarding which, the prosecutrix has not made any attempt to lodge any FIR or bring the fact to the notice of her family. Further, the charge-sheet has been filed and the trial against the applicant is likely to take sometime for its final disposal, hence, for these reasons, I feel inclined to grant bail to the applicant in this case.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge