

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3633 of 2021

- Alim Khan S/o Late Saleem Khan, Aged About 32 Years R/o Ward No. 18, Sai Baba Gali, Tulsipur, Police Station Kotwali, District Rajnandgaon Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kotwali, District Rajnandgaon Chhattisgarh

---- Non-applicant

For Applicant	:	Mr. Mirza Hafeez Baig, Advocate.
For Non-applicant/State	:	Mr. Anil Tripathi, Panel Lawyer.
For Objector	:	Mr. Priyank Rathi, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

19-08-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 08.03.2021, in connection with Crime No.147/2021, registered at Police Station— Kotwali, District- Rajnandgaon, C.G. for offence punishable under Sections 354, 354 (अ), 506, 384 and 376(2) of I.P.C. and Sections 8, 4 and 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The applicant is in jail since 08.03.2021. The story of prosecution is doubtful. It is alleged that this applicant had been outraging the modesty of the victim since April 2019 and lastly he outraged her modesty on 18.07.2021 and then also extorted Rs.17,000/- on 24.02.2021. The written complaint was given on 07.03.2021, which shows that the lodging of F.I.R. is very

clearly delayed and without any explanation.

3. It is also submitted that the falsity of the F.I.R. is evident from the gradual development in the story. In the written statement given on 07.03.2021, the only allegation is about outraging the modesty of the victim, on which basis the offences were registered under Section 354, 354(D), 506 and 384 of I.P.C. On 08.03.2021. The statement of mother of the victim was recorded under Section 161 of Cr.P.C. which is a similar statement. It is submitted that on 09.03.2021, the mother of the victim presented an affidavit in which she for the first time stated that her daughter was raped by the applicant. On which basis, her statement was recorded again under Section 161 of Cr.P.C. The statement of the victim recorded under Section 164 of Cr.P.C. on 15.03.2021 does not mention anything about the rape, therefore, the allegation of rape against this applicant is clearly a fabricated story. Charge-sheet has been filed. Hence, it is prayed that he may be granted bail.
4. Learned State counsel opposes the application submitting that the allegations in the F.I.R. against this applicant are supported by the statement of witnesses under Section 161 and 164 of Cr.P.C. The mother of the victim has explained in her affidavit and statement regarding non-disclosure of physical exploitation of the prosecutrix earlier, that the prosecutrix could not reveal about the incident of rape out of fear of the applicant. The statement of prosecution under Section 164 of Cr.P.C. also mentions that the applicant has forced himself upon the prosecutrix. Hence, there is no case present in favour of the applicant for grant of bail.
5. Learned counsel for the objector adopts the argument advanced by the learned State counsel and submits that ample evidence are present in the case diary showing that this applicant has outraged modesty of the minor victim for the so many times, extorted money from her and also

raped her. Therefore, the applicant is not entitled for grant of bail.

6. Heard learned counsel for the parties and perused the case diary.
7. According to the prosecution case, the applicant is an auto driver, the victim used to commute in his auto for going to school. In the year 2019, the applicant on many occasions outraged the modesty of the minor victim. On 18.07.2020, applicant outraged the modesty of the victim in a public place, subsequent to which the victim complained about this incident to her parents, on their interference, the applicant apologized for the incident. Subsequent to that, the applicant kept stalking and outraging the modesty of the victim and because of his threatening the prosecutrix stole Rs.17,000/- from her own house and gave them to the applicant. It has been alleged later on that the prosecutrix was also raped by the applicant. Hence, this case.
8. Considered on the submissions. Although the disclosure of the incident appears to be gradual but explanation of delay has been given and there is strong objection from the complainant side, therefore, I am of this view that it is not a fit case for grant of bail.
9. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.
10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge