

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3665 of 2021

- Ishwar Yadav S/o Firatram Yadav, Aged About 26 Years R/o Village Gopalpur, Police Station- Sarsinwa, District- Balodabazar Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Sarsinwa, District Balodabazar Bhatapara Chhattisgarh

---- Non-applicant

For Applicant : Mr. Aditya Khare, Advocate.

For Non-applicant/State : Mr. Amit Kumar Verma, Panel Lawyer.

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

27-07-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the third bail application filed for grant of regular bail. The first bail application in M.Cr.C. No.753 of 2020 was dismissed on merits on 30.06.2020. The subsequent application in M.Cr.C. No.6165 of 2020 was dismissed as withdrawn on 29.10.2020. The applicant has been arrested on 24.12.2019, in connection with Crime No.405/2019, registered at Police Station— Sarsinwa, District- Balodabazar- Bhatapara, C.G. for offence punishable under Sections 363, 366 and 376-D of I.P.C. and under Sections 4 and 6 of POCSO Act, 2012.
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 24.12.2019. At present the circumstances have changed. The prosecutrix has been examined in the trial and she has not named

the applicant as a person having committed the offence of rape with her. Hence, looking to this development in this case, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submissions made by the learned counsel for the applicant and submits that the prosecutrix in this case is not totally hostile witness and her deposition in the Court cannot be appreciated for the purpose of granting bail to the applicant. The earlier bail application of this applicant has been rejected on merits, therefore, he is not entitled for grant of bail.
4. The complainant and the prosecutrix had appeared virtually through the Help Desk of this High Court on 19.07.2021 and made a statement of no objection for grant of bail to this applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. In the previous order dated 30.06.2020, it is mentioned that applicant was one of the persons, who had committed the offence of rape with the prosecutrix. Perused the certified copy of deposition of the prosecutrix, there is statement of prosecutrix in her cross-examination that applicant was one of the persons who has raped her. There are some discrepancies, some contradictions, some omissions and some admissions present but the same cannot be appreciated for the purpose of granting bail to this applicant. Hence, for these reasons, I do not feel inclined to allow this application.
7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge