

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3680 of 2021

- Rajesh Kumar Sahu, S/o Shri Chhabiram Sahu, Aged About 30 Years, R/o Village Dhobani, Beergaon, Police Station-Sarsiwa, District Baloda Bazar-Bhatapara Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police-Station Sarsiwa, District-Baloda Bazar-Bhatapara, Chhattisgarh

---- Respondent

For Applicant	: Mr. Tarendra Kumar Jha, Advocate.
For State/respondent	: Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

16/07/2021

Heard.

1. This is the second bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. His first application MCRC No. 5105/2020 was dismissed as withdrawn vide order dated 23.11.2020.
2. This 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.210/2020 registered at Police-Station-Sarsiwa, District-Baloda Bazar-Bhatapara(C.G.) for the offence punishable under Section 376, 506 of IPC and Section 4 of POCSO Act.

3. It is submitted by the learned counsel for the applicant, that the applicant has been innocent and falsely implicated in this case. The prosecutrix and the applicant were not acquainted to each other. The investigation agency did not conduct any TIP(Test Identification Parade) and the material witness in the case have not been examined in the investigation to verify the involvement of this applicant in this case. The prosecutrix and her mother have been examined in the trial and their statement shows that they are unreliable witness. The applicant is in jail since 16.6.2020, hence, it is prayed that this applicant may be enlarged on regular bail.
4. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the prosecutrix has clearly alleged against this applicant and, further, she is not a hostile witness before the Court, hence, the applicant is not entitled for grant of bail.
5. Notice issued to the complainant has been returned served, but there is no appearance and no representation.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. As per prosecution case, it is alleged that the minor prosecutrix who is a disabled person was alone in the house on 10.6.2020. One boy came to her house asking for water and knowing that the prosecutrix was alone he first molested her and then forcefully had physical relation with her. He also threatened her when the prosecutrix made an attempt to raise alarm. The boy identified himself as Rajesh. The prosecutrix informed about this incident to her parents when they came

back. Subsequent to which FIR has been lodged.

8. Considered on the submissions. It is a case of single incident in which the prosecutrix was not acquainted with the applicant, therefore, for this reason and for the reason of her minority the idea of consent is totally ruled out. Further, the prosecutrix, who is examined in the trial, she has identified the applicant in the dock and narrated the incident and she is not a hostile witness. The truthfulness of the statement of prosecutrix is subject to consideration of the trial Court itself and this Court cannot make appreciation of her statement in that regard, therefore, I do not feel inclined to allow the bail application of this applicant.
9. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)

Judge