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HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through video conferencing****Order Reserved on 12.08.2021****Order Delivered on 17.08.2021****MCRC No. 4294 of 2021**

1. Kuber Singh Markam S/o Late Kamal Singh Markam, Aged About 42 Years R/o Village Thakurtola, Police Station Mohgaon, Tahsil Chuikhadan, District Rajnandgaon (Chhattisgarh) Presently Posted as Assistant Engineer At C.G. Electricity Board Circle Chuikhadan, Tahsil Chuikhadan, District Rajnandgaon (Chhattisgarh).

---- Applicant**Versus**

1. State of Chhattisgarh Through Station House Officer, Police Station Chuikhadan, District Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	-	Shri P.K.Verma, Senior Advocate with Shri Abhishek Sharma, Advocate.
For Respondent/State	-	Shri Chandresh Shrivastava, Dy. Advocate General.

Hon'ble Shri Prashant Kumar Mishra, Ag Chief Justice**C A V Order**

1. Heard.
2. The applicant has preferred the first bail application under Section 439 of the Cr.P.C., as he has been arrested in connection with Crime No.111/2021, registered at Police Station – Chuikhadan, District- Rajnandgaon (C.G.) for the offence punishable under Sections 294, 506, 507, 354-A(1)(i), 376(1), 376(2)(F), 376(2)(n) of the Indian Penal Code.

3. The applicant is working as Assistant Engineer, Sub-Division, CSPDCL, Chuikhadan. The prosecutrix is also working in the said office as Data Entry Operator.
4. As per the prosecution case, the applicant taking benefit of his dominant position committed forcible sexual intercourse at least on four occasions during the period 28-09-2020 to 24-04-2021. In the written report lodged on 24-05-2021, the prosecutrix has alleged that she is a probationer Data Entry Operator in the office where the applicant is her superior being posted as Assistant Engineer. Taking benefit of his official position, the applicant used to sexually harass the prosecutrix at the work place and was made to compromise her dignity on threat of her transfer, attachment and terminating her services. In a detailed FIR, she has narrated the sequence of events and the instances of rape.
5. Shri Pramod Verma, learned Senior counsel appearing with Shri Abhishek Sharma, learned counsel for the applicant would argue that the applicant has served four notices to the prosecutrix for not taking interest in the official work and having gone out at odd hours with some other person violating the conditions of the lockdown imposed by the District Magistrate owing to outbreak of COVID 19 pandemic situations. At the same time, it is also argued that if at all any incident has happened, it is a case of consensual sexual intercourse, therefore, the prosecutrix being more than eighteen years of age, no offence is made out and moreover, there is delay in lodging the FIR.
6. Per contra, Shri Chandresh Shrivastava, learned Dy. Advocate General appearing for the State and Shri Ishan Verma, learned counsel appearing for the objector would vehemently oppose the bail

application. They would submit that, the applicant has misused his official position to sexually harass and exploit the prosecutrix, therefore, looking to the seriousness of the crime, applicant does not deserve to be released on bail.

7. Having seen the material available in the case diary and without commenting and discussing the evidence against the applicant, as it may influence his case in the trial, I am not inclined to release the applicant on bail at this stage. However, liberty is reserved in favour of the applicant to revive the prayer after examination of the prosecutrix.
8. Accordingly, the present MCRC is dismissed with the liberty aforesaid.

(Prashant Kumar Mishra)
Acting Chief Justice

Gowri