

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.4484 of 2021**

- Ashwini Kumar Rathiya S/o Dharamlal Rathiya Aged About 19 Years R/o Farkanara, Police Chowki Jobi, Police Station Kharsiya, District Raigarh Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Kharsiya, District Raigarh Chhattisgarh

---- Respondent

For Applicant	:	Shri Rajat Agrawal, Advocate
For Respondent/State	:	Shri Mateen Siddiqui, Dy.AG

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****31/08/2021**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.287/2020 registered at Police Station Kharsiya, District Raigarh for the offence punishable under Section 376, 506 of IPC and Section 6 of the POCSO Act as also Section 67 A of the IT Act. The applicant was arrested on 11-07-2020.

2. This is repeat bail application. Earlier bail application was dismissed on merits. This repeat bail application has been moved mainly on the ground that the prosecutrix has now been examined in the Court and the manner, in which, she has deposed in the Court of she having been subjected to rape, is not reliable. He would further submit that at this stage, the statement of the prosecutrix that she was subjected to rape during her minority could not be looked into, because, during that period the applicant was a juvenile. It is lastly submitted that in this case, the trial has not been concluded till date and the applicant has remained in jail for the last more than one year. therefore, at this stage, the applicant may be granted bail.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that at this stage, this Court may not look into the appreciation of evidence and what the prosecutrix has stated before the trial

Court is to be believed, a case of conviction is made out and plea of juvenility cannot be raised at this stage.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the trial is still not concluded and whether or not the statement of prosecutrix is to be believed, is a matter of appreciation of evidence by this Court and further considering the nature of allegation, I am not inclined to grant bail to the applicant.

6. The bail application is therefore, rejected. However, the trial Court is directed to expedite the trial and conclude the same as early as possible preferably within a period of four months.

Certified copy as per rules.

SD/-
(Manindra Mohan Shrivastava)
Judge