

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4655 of 2021

- Vikas Kushwaha S/o Mahendra Kushwaha, Aged About 19 Years, R/o Village- Parri, Police Station, Tahsil and District- Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Office, Police Station, Surajpur, District- Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh

----Non-applicant

For Applicant – Shri Sachin Singh Rajput, Advocate.

For Non-applicant/State – Shri Anil Tripathi, Panel Lawyer.

Shri Vinod Kumar Pandey, Advocate for the objector/complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-07-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 01-02-2021 in connection with Crime No.556/2020 registered at P.S. - Surajpur, District- Surajpur, Chhattisgarh for the offence under Section 341, 323, 342, 365 & 376 (घ) of the IPC and Section 3(1)(घ)(1), 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 4 & 6 of Protection of Children from Sexual Offences Act .

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 01-02-2021. Charge sheet has been filed. The prosecutrix has been examined in the trial and she has not named the applicant as the person who raped her, therefore, she has been declared hostile by the prosecutor on this point and thus, there is no case left against this applicant. Hence, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

submitting that the diary statement and the statement of the prosecutrix under Section 164 of the Cr.P.C. is clearly against this applicant. Therefore, the applicant is not entitled for grant of bail.

4. The prosecutrix is virtually present through Help Desk of the High Court. She has no objection in grant of bail to the applicant.

5. Heard learned counsel for the parties and perused the case diary.

6. According to the prosecution case, two unknown persons abducted the minor prosecutrix and took her to a dilapidated house, where those two unknown persons called their five friends, then all of them raped the minor prosecutrix one by one. After lodging of the FIR this applicant and others have been identified in the test identification parade. Hence, this case.

7. Considered on the submissions and also perused certified copy of the deposition of the prosecutrix, in which this applicant has not been named by the minor prosecutrix for which she was declared hostile by the prosecutor. Hence, looking to this development, I feel inclined to allow this application.

8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge