

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.4782 of 2021

- Sandeep Nageshiya S/o Mahli Nageshiya Aged About 20 Years R/o Nawadih, Police Station Samripath, District Balrampur Ramanujganj, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Samripath, District Balrampur Ramanujganj Chhattisgarh

---- Non-applicant

For Applicant : Mr. Pushkar Sinha, Advocate.

For Non-applicant/State : Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07-09-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 06.03.2020, in connection with Crime No.13/2020, registered at Police Station- Samripath, District- Balrampur- Ramanujganj, C.G. for offence punishable under Sections 302, 376(D) (A) and 34 of I.P.C. and Section 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that this applicant has been falsely implicated in this case. The applicant is in jail since 06.03.2020. Charge-sheet has been filed. There is no direct evidence present against this applicant to show his involvement in the commission of crime. No injuries were found on the body of the deceased victim. The applicant has been made an accused in this only on the basis of the memorandum statement given by him which is not an evidence admissible under law, therefore, it is prayed that he may be

granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that there is evidence of eye witnesses present to show that the applicant was the person in whose association, the deceased was last seen and it was the applicant who had brought the deceased in unconscious condition to the house of one of the witnesses. The postmortem report mentions about suspected poisoning and also about the stains in her underwear, which was preserved. The F.S.L. report mentions presence of sperm in the underwear of the victim and her vagina. The allegation against this applicant and the other co-accused persons is this that they had gang-raped the minor victim, when she was unconscious. Therefore, the allegation against this applicant is for the commission of offence which is of heinous nature, therefore, his application may be rejected.
4. The complainant Fulchand had virtually appeared before this Court on 29.07.2021 and he made a statement of no objection for grant of bail to the applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. According to prosecution case, on the date of incident, the minor victim of age about 14 years went with this applicant to a picnic spot for celebrating new year. The victim was seen in company of this applicant and then this applicant brought the victim in unconscious condition to the house of witness Lakhan. Subsequent to which she died. This applicant has made statement of memorandum that during the unconsciousness of the victim he and the other two co-accused persons/juvenile offenders have gang-raped the minor victim. The postmortem examination has shown the stains in the underwear of the victim, the vaginal slide prepared has been examined by the F.S.L. and

it is reported that there is a presence of sperm in the vaginal slide. The investigating officer has also initiated the proceeding for D.N.A. examination. Hence, this case.

7. Considered on the submissions. Looking to the facts and circumstances present in this case and also that evidence in the investigation has brought forth circumstantial evidence against this applicant regarding the offence committed. Therefore, it is not a fit case for grant of bail to the applicant.
8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge