

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 5489 of 2021

Ramesh Suryawanshi, Aged about 35 years, (Correct age 47 years) S/o Shri Jivrakhan Suryawanshi, R/o Bhatapara, Sipat, Police Station- Sipat, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through District Magistrate, Bilaspur in respect of Crime No. 608 of 2021, registered at Police Station- Sarkanda, District- Bilaspur.

---- Non-applicant

 For Applicant : Shri Ranbir Singh Marhas, Advocate
 For Non-applicant/State : Shri Uddhav Sharma, Govt. Advocate
 For Complainant : Shri Barun Kumar Chakrabarty, Advocate

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

26.10.2021

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 27.05.2021 in connection with Crime No.608 of 2021 registered at Police Station Sarkanda, District Bilaspur, Chhattisgarh for commission of the offence punishable under Section 376-D read with 34 of Indian Penal Code.
2. Case of the prosecution is that, daughter of the prosecutrix was married with son of co-accused Prahlad and prosecutrix and Prahlad were related as *Samdhi*. In June 2020, when sister-in-law of daughter of prosecutrix got married, prosecutrix went to the house of co-accused Prahlad to attend marriage ceremony. After marriage, when prosecutrix was about to return back to her house, co-accused stated that his family members wanted to go to village Nawapar to attend marriage ceremony of his relative and

therefore, she may reside in his house to take care of her daughter and maternal grandchild, upon which, she stayed in the house of her daughter. Co-accused Prahlad returned back in the night and on the next day, when prosecutrix was preparing food in kitchen, co-accused Prahlad entered into kitchen, caught hold of her hand and asked for sexual favour. On next day, he tried to outrage her modesty. The act of co-accused Prahlad was objected, upon which, he went to another village. On 03.07.2020, when prosecutrix was bringing clothes from rooftop, co-accused Prahlad caught hold of her and committed forceful intercourse with her. In the month of October 2020, prosecutrix went to the house of co-accused Prahlad for treatment of her maternal grandchild, at that time also, co-accused Prahlad made an attempt to commit forceful intercourse, but he could not succeeded. After some time, son-in-law of prosecutrix became seriously ill and suffered infection in his urine. On call of her daughter, she took her son-in-law to the hospital. At that time, in the night of about 10.30 PM, co-accused Prahlad and present applicant, who are relative enjoyed liquor party and in the night, committed forceful intercourse one by one with the prosecutrix. Incident was thereafter reported before the concerned Police Station, based upon which, aforementioned crime was registered against the applicant.

3. Shri Ranbir Singh Marhas, learned counsel for the applicant would submit that allegation levelled against the applicant is absolutely false and baseless. No such incident has taken place. He submits

that incident is alleged to be of the month of January, but report was lodged with the concerned Police Station in the month of May. There is inordinate delay in lodging the report which itself shows that allegation levelled against the applicant is false and frivolous. He further submits that wife of Prahlad contested Municipal Election, for which, co-accused took hand loan from husband of prosecutrix. The hand loan was not returned by Prahlad, hence, false allegation is levelled against co-accused Prahlad and present applicant. Applicant is in jail since 27.05.2021, hence, he may be enlarged on regular bail.

4. On the other hand, Shri Uddhav Sharma, learned Govt. Advocate representing the State and Shri Barun Kumar Chakrabarty, Advocate for complainant while opposing the submissions made by learned counsel for the applicant would submit that serious allegation have been levelled against the applicant and co-accused persons He submits that applicant and co-accused are related to each other. Applicant visited the house of co-accused Prahlad. On the date of incident, prosecutrix had requested the present applicant to took her to Shri Ram Hospital as her son-in-law was admitted in that hospital, at that time of returning from hospital, present applicant has made obscene comment. In the night, applicant and the co-accused Prahlad further consumed liquor in the house of Prahlad and thereafter both of them committed forceful intercourse with her. He submits that looking to the nature of crime, he is not entitled for bail. Learned counsel for the State also submits that there is no delay in lodging of First

Information Report. In support of his contention, he read over First Information Report and statement of prosecutrix recorded under Section 164 of Cr.P.C.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, contents of First Information Report as well as statement of prosecutrix recorded under Section 161 of Cr.P.C., I do not find it to be a fit case to enlarge the applicant on bail. Accordingly, bail application is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Yogesh