

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5553 of 2021

- Surendra Kashyap S/o Vishabh Kashyap, Aged About 23 Years, R/o Patelpara, Nalpawand, Police Chowki- Bakawand, Police Station- Nagarnar, District- Bastar, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Chowki- Bakawand, Police Station- Nagarnar, District- Bastar, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

----Non-applicant

For Applicant – Mr. Navin Shukla, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-09-2021

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 07-04-2021 in connection with Crime No.74/2021 registered at P.S. - Police Chowki- Bakawand, Police Station- Nagarnar, District- Bastar, Chhattisgarh for the offence under Section 376 of the IPC and Section 04 of POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 07-04-2021. Charge sheet has been filed. The FIR lodged against the applicant is totally false. The counseling report which is part of the charge sheet mentions that the applicant and the prosecutrix knew each other and they were having affair. The physical relation that took place on the date of incident was consensual. The prosecutrix has also stated before the counselor that she has lodged the FIR because of compulsion of her parents. It is also submitted that the incident took place on 03-04-2021, whereas, the FIR was lodged on 06-04-2021 after due deliberation. Hence, the applicant is entitled for grant of bail and his application

may be allowed.

3. Learned counsel for the State/non-applicant opposes the application stating that the statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. is clear and categorical that she was raped by the applicant. Therefore, there is no case present for grant of bail.

4. The prosecutrix was virtually present before this Court on 01-09-2021 and she had objected to grant of bail to the applicant.

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

6. The case of prosecution is this, that the prosecutrix had been to a marriage ceremony where the applicant was present. The applicant then caught hold of the prosecutrix, dragged her to a nearby field and raped her, regarding which the FIR has been lodged.

7. Considered on the submissions. The counseling report was submitted by the counselor on 08-04-2021 and the same is part of the charge sheet, which tells a different story. Further, the FIR is also delayed by three days. Hence, under these circumstances, 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