

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 6053 of 2021**

- Lakhan @ Lakhansingh Baiga S/o Brijlal Baiga aged about 25 Years R/o Niwaskhar, Police Station- Lormi, Chouki Khudiya, District- Mungeli, Chhattisgarh

-----Applicant**VERSUS**

- State of Chhattisgarh through: Police Station- Lormi OutPost- Khudiya, District- Mungeli, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Hemant Keshawani, Advocate.
For Non-applicant	: Mr. Vikas A. Shrivastava, P.L.

SB: Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****27/10/2021**

1. Applicant has filed this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 255/2021 registered at Police Station Lormi Outpost Khudiya, District Mungeli (C.G.) for offence punishable under Section 376 of IPC and Section 3 & 4 of POCSO Act.
2. As per case of prosecution, oral report was lodged by prosecutrix on 16.07.2021 before the concerned police station stating that when prosecutrix along with her sister went to attend marriage at village Rajak, applicant was also present there on invitation. In the night at about 11:00 pm, when prosecutrix went to answer nature's call, applicant caught hold of her and committed forceful sexual intercourse. The incident was not reported by prosecutrix due to fear. When her menstrual cycle was stopped she went to hospital where upon her examination it is reported that she was pregnant. When the members of panchayat along with prosecutrix approached the

applicant, he refused to keep her. Based on the written report, aforementioned crime is registered against applicant.

3. Mr. Hemant Kesharwani, learned counsel for the applicant submits that the allegations levelled against applicant are false and frivolous. Applicant has not committed any offence as alleged against him. After registration of crime against applicant, consent for DNA test was obtained from prosecutrix and her mother to which they denied. Denial of conducting DNA test itself shows that the allegations levelled against applicant are not correct. He also submits that the prosecutrix, as per the documents available in the charge-sheet, is about 17 years of age. Applicant is in jail since 16.07.2021, hence, he may be enlarged on bail.
4. Mr. Vikas Shrivastava, learned State counsel, while opposing the submission made by learned counsel for the applicant, submits, that there is allegation against applicant that he committed forceful intercourse with minor girl who on the date of incident was 16 years of age. However, upon putting specific question with regard to submissions made by learned counsel for applicant of denial of conducting DNA test, he submits that as per the documents available in the case diary it is mentioned that the prosecutrix and her mother denied to undergo DNA test of prosecutrix.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration, nature of allegations, the fact that alleged incident is stated to have been committed on 01.02.2021 of which report was lodged on 16.07.2021 after lapse of 5 months, prosecutrix and her mother refused to undergo scientific test DNA of prosecutrix, without commenting anything on merits, I am inclined to allow the bail

application.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the Court on the conditions that-

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Pawan