

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6155 of 2021**

Rajesh Shandilya Son Of Dular Sai Aged About 20 Years R/o. Bhilai Kala,
P.S. And Tehsil - Dhourpur, District Surguja (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through S.H.O. P.S. Dhourpur, District Surguja,
Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Rahul Agrawal, Advocate alongwith Shri Asseem Gopal, Advocate.
For the Respondent/State	:	Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****28.09.2021**

Heard.

1. This is the fifth bail application of the applicant. The first bail application of the applicant was dismissed as withdrawn on 10.12.2018 in M.Cr.C. No. 4670 of 2018, the second bail application was again dismissed as withdrawn on 13.5.2019 in M.Cr.C. No. 1900 of 2019, the third bail application was dismissed on merits vide order dated 16.7.2019 in M.Cr.C. No. 4126 of 2019 and the fourth bail application was again dismissed as withdrawn on 26.2.2021 in M.Cr.C. No. 589 of 2021. The applicant has been arrested in connection with Crime No.52 of 2017, registered at Police Station – Dhaurpur, District Surguja, Chhattisgarh for the offence punishable under Sections 363, 366, 376(2)(n), 506-B and 306 of the Indian Penal Code and Sections 5(th) & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 18.2.2018 and has been falsely implicated in this case. It is submitted that the applicant has undergone detention in jail for about 3 ½ years and the trial against him is still not completed. The witnesses, who are sister, mother and uncle of the deceased/ prosecutrix have been examined and have not made any statement against this applicant. The certified copies of their depositions have been filed for perusal of this Court. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the deceased/ prosecutrix had herself lodged the *dehati nalishi* which has the value of dying declaration revealing the facts because of which, she felt compelled to commit suicide, that statement of the deceased before her death is intact. Hence, the applicant is not entitled for grant of regular bail.

4. Complainant – Jageshwar Ekka was virtually present before this Court on notice on 20.9.2021 and he made a statement that he has objection in grant of bail to the applicant.

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

6. According to the prosecution case, this applicant by putting the minor prosecutrix under threat abducted her and then he raped her against her willingness and consent. The prosecutrix came back to her house and then,

feeling perturbed by the incident consumed some pesticide. The prosecutrix was admitted in the hospital for treatment there she lodged the un-numbered FIR against the applicant. Hence, this case.

7. Considered the submissions and the facts present in this case. Perused the certified copy of the deposition of the witnesses who have been examined so far in the trial. Taking into consideration this fact that it is almost 3 ½ years and the trial against the applicant has not been completed so far, hence, only on the ground that the trial of the applicant is getting delay, I feel inclined to grant regular bail to the applicant.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that 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 trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge