

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6313 of 2021**

Deepak Agrawal S/o Jagdish Agrawal Aged About 45 Years R/o Ward No. 03,
Rajapara, Sakti, P.S.-- Sakti, Tahsil- Sakti, District : Janjgir-Champa,
Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh through Station House Officer, Police Station- Sakti,
District : Janjgir-Champa, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Hari Agrawal, Advocate.
For State/Respondent	:	Mr. Amit Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****07.10.2021**

1. Heard.
2. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No. 58/2020 registered at Police Station- Sakti, District- Janjgir-Champa (C.G.) for offence punishable under Sections 114, 366A, 376 (2) (d) of IPC & Section 6 of POCSO Act, 2012.
3. First bail application was dismissed on merits vide order dated 12.04.2021 passed in MCRC No.256/2021.
4. It is submitted by learned counsel for the applicant that the facts and circumstances are now changed in favour of this applicant.

Prosecutrix has been examined in the trial in which she has neither identified the applicant nor she has stated against him, she had also not identified the applicant in the test identification parade, therefore, no case is made out against the applicant. Hence, it is prayed that the applicant may be enlarged on regular bail.

5. On the other hand, learned counsel for the State opposes the bail application and submissions made in this respect. It is submitted that the prosecutrix was minor aged about 16 years and she has given clear statement against this applicant in her statement recorded under Section 161 of Cr.P.C., therefore, the application be rejected.
6. The prosecutrix was virtually present before this Court on 06.10.2021 and stated that she has no objection in grant of bail to the applicant.
7. I have heard counsel for both the parties and perused the case diary.
8. As per prosecution case, the minor prosecutrix was abducted by co-accused Narendra Kumar Dewangan, who brought her to his own house and raped her for about 2-3 days. Subsequent to that on 17.02.2020, this applicant and three other co-accused persons, who were unknown to the prosecutrix raped her one by one regarding which FIR has been lodged.
9. Considered on the submissions. Perused certified copy of deposition of prosecutrix which is annexed along with the application. The prosecutrix is a hostile witness as she has not supported the case of prosecution. Hence, looking this development in the trial, I feel inclined to allow the application of this applicant.

10. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Saurabh