

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 6134 of 2021

- Kapil Chandrakar son of Ramkumar Chandrakar, aged about 28 years, resident of Village- Kharrhatta Khurd, Police Station- Pandatarai, Tahsil- Pandaria, District Kabirdham (C.G.)

---- Applicant

Versus

- State of Chhattisgarh Through : Station House Officer, Police Station – Civil Line, Bilaspur, District Bilaspur (C.G.)

---- State/Non-applicant

For Applicant	:	Shri Dharmesh Shrivastava, Advocate
For Non-Applicant/State	:	Shri Chitendra Singh, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

14.09.2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 23.07.2021 in connection with Crime No. 797/2020 registered in Police Station Civil Line, Bilaspur, District Bilaspur (CG) for the offence punishable under Section 376 D of IPC.
2. Allegation against the present applicant is that he alongwith another co-accused namely Rajesh Chandrakar committed forcible sexual intercourse, one after another, with the prosecutrix on 09-11-2020. After the incident, the prosecutrix called the police by dialing number 112 and lodged the report.
3. Learned counsel for the applicant submits that the allegation against the applicant is false and fabricated, he has been falsely implicated in this case. He submits that the present applicant has not committed sexual intercourse with the prosecutrix against her will. He further submits that if the case of prosecution is taken as it is, then also the alleged offence is not made out against the applicant and the prosecutrix appears to be consenting and

willing party. He submits that there is money dispute between the prosecutrix and co-accused Rajesh Chandrakar and the co-accused has not returned the amount of Rs.20,000/- to the prosecutrix, for which, the prosecutrix has lodged false report against the applicant and co-accused. He also submits that applicant is in jail since 23.07.2021, conclusion of the trial is likely to take some time, therefore, he may be granted bail.

4. On the other hand, learned State Counsel opposes bail application.
5. Considering the facts and circumstances of the case, considering the nature of allegation made against the applicant regarding gang rape and 161 Cr.P.C. & 164 Cr.P.C. statement of the prosecutrix, there is no previous enmity between the present applicant and the prosecutrix, nor any reason to falsely implicate the applicant, without commenting anything on merits of the case, I am not inclined to grant bail to the present applicant.
6. Accordingly, the bail application is dismissed.

Sd/-
(Gautam Chourdiya)
Judge