

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.Cr.C. No. 6489 of 2021

Aman @ Ganeshwar @ Tinku Bharti S/o Nemchand Bharti, Aged About 22 Years, R/o Saksharta Chowk, Near Shivmandir, Camp - 1, Bhilai, Police Station -Chhawani, District -Durg, Chhattisgarh.

---- Appellant

Versus

State of Chhattisgarh Through The Station House Officer -Bhatti, Bhilai, District -Durg, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Arvinda Kumar Dubey, Advocate.
For Respondent/State	: Ms. Anjali Singh Chauhan, PL.

Hon'ble Shri Parth Prateem Sahu, J
Order on Board

02/09/2021

Heard.

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicant, who has been arrested in connection with Crime No.182/2020, registered at Police Station -Bhilai Bhatti, District -Durg, (C.G.), for commission of offence punishable under Sections 366, 376 and 506 of the Indian Penal Code.
2. Case of the prosecution is that on 25.12.2020 at about 3:30 pm prosecutrix was going to her friends house, one Aman Bharti came near to her on motorcycle and stated that her friend Sunny is calling her, upon which she refused to go with him. On the threat of knife shown by Aman Bharti forcefully took the prosecutrix with him on motorcycle and went to Camp-1, where applicant committed forceful intercourse with her. Incident was reported by prosecutrix to her mother and thereafter report was lodged to police.
3. Learned counsel for the applicant submits that allegation of commission of forceful intercourse with prosecutrix is false and frivolous. Applicant and prosecutrix were having friendly relationship and prosecutrix with her own will and consent has made physical relation with applicant. Prosecutrix is examined before Trial Court and has not supported the case of prosecution. Applicant is in jail since 26.12.2020. Hence, he may be enlarged on regular bail.

4. Learned State Counsel opposes the submissions made by learned counsel for the applicant and submits that in statement recorded under Section 161 and 164 of Cr.P.C prosecutrix has levelled allegation of commission of forceful intercourse by applicant with her on knife point. She also submits that doctor, at the time of MLC, has found rupture of hymen and bleeding. Hence, applicant is not entitled for grant of bail.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegation, material available on record, period of detention, without commenting anything on merits of the case, I am inclined to allow this bail application.
7. Accordingly, bail application is allowed. It is directed that applicant shall be released on regular bail, on his furnishing a bail bond in 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 as and when directed by the investigating agency during the course of investigation.
 - b) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) He shall not, in any manner, tamper with the prosecution witnesses.
 - c) If he 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

Jamal/-