

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6508 of 2021**

Pyarelal Gupta S/o Nandlal Gupta, Aged About 31 Years, R/o Ward No.1, Ramanujganj, Police Station - Ramanujganj, District - Balrampur - Ramanujganj Chhattisgarh.

---- Applicant**Versus**

The State of Chhattisgarh, Through Police Station - Ramanujganj, District - Balrampur - Ramanujanj Chhattisgarh.

---- Non-applicant

For Applicant : Mr. A.K. Prasad, Advocate

For Non-applicant/State : Ms. Smriti Shrivastava, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****13.12.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 21.07.2021 in connection with Crime No.124 of 2021 registered at Police Station Ramanujganj District Balrampur Ramanujganj (C.G.) for commission of offence punishable under Sections 450 and 376 of Indian Penal Code.
2. Case of prosecution, in brief, is that prosecutrix lodged a report on 13.05.2021 stating therein that in the night, on 10.05.2021 at about 10.35 P.M., when prosecutrix was sleeping along with her children in the home, came out to answer nature's call, applicant caught hold of her, took her inside the house and committed forceful sexual intercourse with her. Incident was reported to concerned police station on 13.05.2021, based upon which,

aforementioned crime was registered against the applicant and he was arrested.

3. Mr. A. K. Prasad, learned counsel for the applicant would submit that applicant and prosecutrix are neighbours. Due to some enmity, false and fabricated report has been lodged against applicant implicating him in aforementioned crime. He further submits that there is delay in lodging the report of three days, which itself is sufficient to consider that false allegation has been levelled against applicant. He further argued that wife of applicant executed an affidavit wherein she stated that applicant was arrested in false and fabricated case. Applicant is in jail since 21.07.2021, hence, he may be enlarged on regular bail.
4. Ms. Smriti Shrivastava, Panel Lawyer for the State opposing the submissions made by learned counsel for the applicant, would submit that on the date of incident, no other elder member was there along with prosecutrix as per allegation when she came out to answer nature's call, applicant caught hold of her and committed forceful sexual intercourse. She also submits that when husband of prosecutrix came to house from outstation on 13.05.2021, immediately thereafter report has been lodged. She read over statement of prosecutrix recorded under Sections 161 as also 164 of Cr.P.C. in support of her contention. She pointed out that Investigating Agency recorded statement of wife of applicant, by name, Anjali Gupta during the course of investigation. She stated that on the date and time of incident, applicant was not present in house. When she made query with regard to his absence in the house, he has not given proper explanation/reply, on the next day i.e. 11.05.2021, prosecutrix

came to her house and narrated the incident of commission of forceful sexual intercourse by her husband. She also read over the statement of Dr. Rakesh Tandon, from whom, applicant has taken medical certificate of his treatment. Doctor has specifically stated that applicant at no point of time took treatment as inpatient continuously from him, but taken treatment as outpatient. Medical certificate issued by him stating that applicant was treated by him as inpatient, is not correct.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, statement of prosecutrix and statement of Anjali Gupta (wife of applicant) recorded under Section 161 of Cr.P.C., I do not find it to be a fit case to enlarge the applicant on bail. Accordingly, the application is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge