

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6549 of 2021**

Mukesh Kumar Kesharwani S/o Ramchandra Keshwarwani Aged
About 26 Years R/o Ward No. 8, Daldal Bijuri, District Anuppur M. P.

---- Applicant

Versus

State of Chhattisgarh, through Station House Office, Police Station
Kotwali, Outpost Manikpur, Distt. Korba CG

---- Non-applicant

For applicant	Mr. Praveen Das, Adv.
For non-applicant/State	Mr. Ankur Kashyap, Panel Lawyer.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****28-10-2021**

1. As per applicant, this is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 485/2021 registered in police station Kotwali, Outpost Manikpur, Distt. Korba, (CG) for offence punishable under Section 376 of the Indian Penal Code.
3. As per prosecution case, victim/ prosecutrix, aged about 21 years, had gone to the place of her maternal uncle (Mama) at village Bijuri, Tahsil Kotma, Distt. Anuppur (MP), where she developed friendship with the applicant. One day, when she had gone to the house of applicant, he gave her meal, taking which, the complainant became unconscious, thereafter the applicant committed rape with her. Later one, when she complained about this to the applicant, he asked to marry with her. Thereafter, the applicant sexually abused her many times in other places also. When she came to know that the applicant is going to marry with someone else, thereafter she lodged written complaint to the Superintendent of Police, District Korba (CG), on the basis of which, FIR under Section 376 of IPC was registered in PS City Kotwali, Distt. Korba. After due investigation, charge sheet under Section 376 of the IPC was filed against the applicant.
4. Counsel for the applicant submitted that the applicant has not

committed alleged rape with the victim/prosecutrix. It is a matter of consent. Victim/prosecutrix is an adult lady, earlier married with one Krishna Siddharth Sahu in the year 2018. When the applicant came to know about this fact, he detached himself from the complainant. Hence, she has lodged report against him. He also submitted that the applicant is permanent resident of given address. Charge sheet has been filed, therefore, there is no possibility of his tempering prosecution witnesses. He is in jail since 6-6-2021, conclusion of trial will take a long time, hence he may be enlarged on bail.

5. On the other hand, State Counsel opposed the bail application and submitted that applicant has committed rape with the victim/prosecutrix repeatedly, that too, on the pretext of marriage, but later on, he did not marry her. Hence, looking to the seriousness of the offence, the applicant is not entitled to be released on bail.
6. I have heard counsel for both the parties and perused the case diary and the material available on record.
7. Considering the facts and circumstances of the case, age of the victim/ prosecutrix, who had earlier married with one Krishna Siddharth Sahu, as she has stated in her statement before this Court on 21-10-2021, in which she has also objected bail application filed by the applicant, and further taking into consideration that charge sheet has already been filed, hence there is no chance of tempering the witnesses, I feel inclined to allow the bail application. Therefore, the application is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.
8. CC as per rules.

SD/-
(N.K. Chandravanshi)
Judge