

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6753 of 2021**

- Sanesh Dehari, S/o Sampat Dehari, Aged About 27 Years R/o Village Deharipara Kolar, Thana Ravghat, District Uttar Baster Kanker Chhattisgarh

---- Applicant (In jail)**Versus**

- The State Of Chhattisgarh, Through District Magistrate District U.B. Kanker Chhattisgarh

---- Respondent

For Applicant	: Shri Parag Kotecha, Advocate
For Respondent/State	: Shri Ashish Gupta, PL

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**26.11.2021**

1. Applicant has preferred this application under Section 439 CrPC for his release on regular bail as he has been arrested in connection with Crime No.10 of 2020 registered at Police Station Ravghat, District- Uttar Bastar, Kanker Chhattisgarh for the offences punishable under Sections 363, 366, 376, 376(3) of the IPC and Section 4 of POCSO (Protection of Children from Sexual Offences) Act, 2012.
2. Case of the prosecution is that on 13.12.2020 at about 8 pm, when prosecutrix along with her friend was going to the house, where marriage ceremony is going on for the purpose of taking dinner, at that relevant time, applicant along with his friend, came on Motorcycle, caught hold of prosecutrix, took her on side of road and committed forceful sexual intercourse with her. Friend of prosecutrix, who accompanied her went to the house of prosecutrix, intimated the incident to her father. Report was lodged on the next day, ie on 14.12.2020, based upon which, aforementioned crime was registered against applicant.
3. Shri Parag Kotecha, learned counsel for the applicant would submit that allegations levelled against applicant are absolutely false and fabricated.

Applicant has not committed any offence as alleged against him. He pointed out that there are allegations of commission of rape upon prosecutrix, but medical examination report does not support allegation levelled by prosecutrix in any manner. Even in FSL report, there is no mention of commission of alleged offence with prosecutrix, hence, applicant may be enlarged on regular bail.

4. Shri Ashish Gupta, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that age of prosecutrix on the date of incident is 12 years 4 months only, apart from allegations levelled by prosecutrix and her father, there is statement of Kamini Nag, friend, who accompanied prosecutrix at the time of incident, wherein it is also alleged that applicant caught hold of prosecutrix and dragged her to nearby place.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegations against applicant, statement recorded by prosecution under Section 161 and 164 of the CrPC of prosecutrix, as also statement of Kamini Nag, friend of prosecutrix and eye witness recorded under Section 161 of the CrPC, I do not find it a fit case to enlarge the applicant on bail at this stage.

7. Accordingly, the bail application is dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE