

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 6906 of 2021

Sumer Ram Khadiya S/o Dukhu Ram Khadiya, Aged About 26 Years, Caste Khadiya, R/o Village Amora, Chowki Sirpur, Police Station Tumgaon, Tahsil and District Mahasamund, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, Police Station Tumgaon, District Mahasamund, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Shikhar Sharma, Advocate.
For State	: Ms. Anjali Singh Chauhan, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

21/09/2021

Heard.

1. First bail application of applicant was dismissed as withdrawn with liberty to revive the same after examination of prosecutrix.
2. 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.03/2021, registered at Police Station -Tumgaon, Mahasamund, (C.G.), for commission of offence punishable under Section 376 (2) (n) of the Indian Penal Code. (as mentioned in body of impugned order).
3. Case of the prosecution in brief is that grand-father of complainant/prosecutrix lodged report mentioning therein that applicant on 22.12.2020 and 23.12.20 took the prosecutrix for the purpose of getting treatment of her epilepsy. He took her behind Kabir Ashram Forest and committed forceful sexual intercourse with her. Based upon report, instant crime was registered against applicant.
4. Learned counsel for the applicant submits that on 26.07.2021 prosecutrix was examined by the trial Court, in her statement there are contradiction and omission which shows that allegation levelled against applicant is false and frivolous. Applicant is in jail since 06.01.2021, hence, he may be enlarged on bail.

5. Learned State Counsel opposes the submissions made by learned counsel for the applicant and submits that prosecutrix in complaint as well as statement recorded under Section 161 of Cr.P.C has made specific allegation against applicant of commission of forceful sexual intercourse with her. In para 4 & 7 of her examination- in-chief, prosecutrix stated that applicant has made physical relation with her. Hence, he is not entitled for grant of regular bail.
6. Heard learned counsel for the parties.
7. Considering the entire facts and circumstances of the case, nature of allegation, and that, omission and contradiction in evidence of prosecutrix as pointed out by the learned counsel for the applicant cannot be appreciated in this proceeding, I do not find it to be a fit case to enlarge the applicant on regular bail.
8. Accordingly, bail application is rejected.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-