

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.6932 of 2021

- Sharmanand Yadav, S/o Sohar Yadav, Aged About 23 Years, Caste Ahir, R/o Charbhaiya, Tahsil Sanna, District Jashpur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Incharge, Chowki Pandrapath, Police Station Bagicha, District Jashpur, Chhattisgarh

---- Respondent

For Applicant	Shri J. K. Saxena, Advocate
For Respondent	Shri Amit Kumar Verma, PL

Hon'ble Justice Shri Parth Prateem Sahu

Order On Board

29/11/2021

1. The applicant has filed this bail application under Section 439 of CrPC for grant of regular bail, as he has been arrested in connection with Crime No.153/2019, registered at Police Outpost Pandrapath, Police Station Bagicha, District Jashpur (C.G.) for the offence punishable under Section 376 of IPC.
2. Case of the prosecution is that on 02.11.2019 at about 10 to 11 pm, when the prosecutrix was with her sister in her house, the applicant came there, dragged the prosecutrix out of the house, took her to nearby place and committed forcible sexual intercourse. On hearing the screaming of prosecutrix, residents of nearby place came there and caught applicant. The incident was reported to concerned police station, based on which aforesaid crime was registered against the

applicant and he was arrested on 18.07.2021.

3. Shri Saxena, learned counsel for the applicant, would submit that the prosecutrix has lodged report making false allegation only on account of pressure of the villagers. Applicant and the prosecutrix were in love affair, they performed marriage in temple in presence of family members of both the parties i.e. the applicant and the prosecutrix. Prosecutrix stayed for about 2 years in the matrimonial house and thereafter she went to her parental house. He would further submit that the prosecutrix was examined before Trial Court on 10.11.2021 wherein she has not supported the case of prosecution, instead she stated that the applicant and the prosecutrix got married in the temple in presence of parents of both the parties. Copy of the deposition sheet of the prosecutrix is placed on record along with covering memo dated 18.11.2021. The applicant is in jail since 18.07.2021, therefore, he may be enlarged on bail.
4. Shri Verma, learned State counsel, would oppose the submission of learned counsel for the applicant and would submit that as per the contents of the FIR, there is allegation against the applicant that he took the prosecutrix to nearby place and committed forcible sexual intercourse, hence he is not entitled for benefit of bail. Upon putting specific query with regard to the statement of the prosecutrix recorded under Section 164 of CrPC, State counsel read over the statement of prosecutrix and would state that the prosecutrix stated that she does not want any proceeding against the applicant and further he has not disputed the submission made by learned counsel for the applicant with regard to the court statement of the prosecutrix.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegation, the submission made by learned counsel for the applicant that in the court statement the prosecutrix has not supported the case of prosecution, period of pre trial detention, without commenting anything on the merits of the case, I am inclined to release the applicant on bail.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon his furnishing a personal bail bond for a sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the Trial Court on the conditions that:-
 - (a) The applicant shall appear before the Trial Court regularly on each and every date unless exempted from appearance.
 - (b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
 - (c) If the applicant 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