

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7144 of 2021**

Shishupal Ram, S/o Jeetram Lohar, Aged About 18 Years 11 Months, Caste-
Lohar, R/o Village – Alori- Kharwatoli, Chowki – Sonkyari, Police Station -&
Tahsil – Sanna, District Jashpur (C.G.) (In jail)

---- Applicant**Versus**

State of Chhattisgarh, Through Station House Officer of Police Station – Sanna,
District – Jashpur (C.G.)

----Non-applicant

For Applicant : Mr. Sanjeev Kumar Sahu, Advocate.
For Non-applicant : Mr. Ajay Kumrani, Panel Lawyer.

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****27.10.2021**

(1) The applicant/accused has preferred this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail in connection with Crime No. 38/2021 registered at police Station Sanna, District Jashpur for commission of offence punishable under Sections 363, 366 & 376(2)(N) of the Indian Penal Code, Sections 3 & 4 of The Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(2) Case of the prosecution, in brief, is that the victim/prosecutrix lodged written FIR against the applicant alleging therein that applicant knowing fully that she is minor and belongs to Scheduled caste community, abducted her, and on the pretext of

marriage he made physical relation with her repeatedly. On being written report, FIR was lodged in the Police Station Sanna, District Jashpur. After usual investigation, charge-sheet under Sections 363, 366 & 376(2)(N) of the Indian Penal Code, Sections 3 & 4 of The Protection of Children from Sexual Offences Act, 2012 and Section 3(2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was filed before the trial Court, which is pending before the trial Court

(3) Counsel for the applicant would submit that the applicant has been falsely implicated in this case as he has not committed the alleged crime. He would next submit that medical evidence filed with the charge-sheet does not support the case of the prosecution, even no such documents have been filed, which would show that the victim/prosecutrix was minor at the time of incident. He would also submit that victim/prosecutrix and her mother have been examined before the trial Court but they have not supported the case of the prosecution in their deposition and they have been declared hostile. According to him, the applicant is languishing in jail since 01.6.2021; charge sheet has already been filed and the trial is likely to take time for its final disposal, therefore, the applicant is entitled to be released on bail.

(4) On the other hand, learned counsel for the State while opposing the submission made by counsel for the applicant would submit that it is a case of abduction and rape of minor prosecutrix, who belongs to Scheduled Tribe community. Trial is going on, therefore, looking to nature & gravity of offence, the applicant is not entitled to be released on bail.

(5) Mother of prosecutrix and prosecutrix herself were heard on 26.10.2021, in which, they have stated that they do not know the applicant. They have also stated that

nobody has committed any wrongful act/alleged offence with victim/prosecutrix.

(6) I have heard learned counsel appearing for the parties and perused the case diary as well as material available on record including statements of the prosecutrix & her mother made before this Court.

(7) Certified copies of the statements of victim/prosecutrix & her mother recorded before the trial Court have been filed by the applicant, which show that they have been declared hostile by the prosecution and they have not supported the case of the prosecution. Before this Court also, they did not raise any objection with regard to bail application filed by the applicant. Considering the facts & circumstances of the case, particularly, detention period of the applicant and hostility of the complainant and her mother in their deposition recorded before the trial Court, I am of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

(9) Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy, as per rules.

Sd/-
(N.K. Chandravanshi)
Judge

D/-

