

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No.7081 of 2021

- Bhagwan Singh, S/o Bhaiya Lal, aged about 25 years, R/o village Badkabahra, Thana Kelhari, District Korea (CG)

---- Applicant (In Jail)

Versus

- The State of Chhattisgarh, through Police Station Kelhari, District-Korea (CG).

....Non-applicant

For Applicant	:	Mr. Hemant Agrawal, Advocate
For Non-applicant	:	Mr. Srikant Kaushik, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

29.11.2021

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 28.9.2020 in connection with Crime No.88/2020 registered at Police Station Kelhari, District Korea (CG) for commission of offence punishable under Section 376(D), 2 (n), 342, 506 of IPC.
2. Case of the prosecution, in brief, is that on 13.8.2020 prosecutrix alone had gone to forest to collect firewood. Applicant and co-accused Mangal came there, they forcibly took her to house of applicant and there they committed rape with her. On next day, report of incident was lodged in police station based upon which offence in question is registered against applicant and co-accused. Applicant was arrested on 28.9.2020.
3. Mr. Hemant Agrawal, learned counsel for applicant would submit that false and fabricated allegations have been levelled

against applicant. There are contradictions and omissions in the statement of prosecutrix recorded before the trial Court. Even if evidence of prosecutrix recorded before the trial Court is taken as it is, then also no offence as alleged against applicant would be made out. Applicant is in jail since 28.9.2020, hence he may be enlarged on regular bail.

4. Per contra, Mr. Srikant Kaushik, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that specific allegation of committing forcible sexual intercourse by both accused persons is levelled by prosecutrix. In Para-2 of her evidence/deposition sheet, which is placed on record along with covering memo, prosecutrix has levelled allegation of commission of forcible sexual intercourse by accused persons including applicant. Hence, applicant is not entitled for grant of regular bail.
5. I have heard learned counsel for the parties.
6. Taking into consideration facts and circumstances of case, nature of allegations; statement of prosecutrix recorded before the trial Court, I am not inclined to grant regular bail to applicant.
7. Accordingly, bail application is rejected.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-