

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7222 of 2021**

- Vikas @ Gourav Yadav S/o Shri Pawan Yadav Aged About 19 Years
R/o House Of Mithilesh Pandey, Aam Bageecha, Sunder Nagar,
Raipur, CG

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station
Purani Basti, District Raipur, CG

---- Non-applicant

For applicant	Mr. Pawan Kumar Kashyap, Adv.
For non-applicant/State	Mr. Ajay Kumrani, PL.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****27-10-2021**

1. As per applicant, this is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 137/2021 registered in police station Purani Basti, Raipur, (CG) for offence punishable under Section 363, 366, 376, 376-DA, 328 of the Indian Penal Code, Section 4 and 6 of the Protection of Children from Sexual Offences Act and Section 3(2)(v क) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. Brief facts of the case are that on 10-6-2021 at about 3 pm when the victim/ prosecutrix was going towards her house, applicant and 3 other co-accused persons came on two motorcycles, sniffed her something with handkerchief, as a result of which, she fell unconscious, then they abducted her and took her to a lonely place, when she regained some consciousness, they committed rape with her one by one and at about 4 am, they left her alone there and fled away. The victim prosecutrix identified one person of them and filed written complaint in Police Station Purani Basti, Raipur, on the basis of which, FIR was lodged. After investigation, police filed charge sheet under Section 363, 366, 376, 376DA, 328 of the Indian Penal Code, Section 4 and 6 of the Protection of Children from Sexual Offences Act and Section 3(2)(v क) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the applicant and another accused person. Other two accused persons were found juvenile offenders.
4. Counsel for the applicant submitted that applicant is not involved in

the alleged crime. Any way, he has been implicated only on the basis of suspicion. He next submitted that victim/prosecutrix and one juvenile was having love affair and that juvenile had taken her. He also submitted that the applicant was not present on the spot and there is no direct allegation against him. Medical document of victim/prosecutrix does not support the case of prosecution. He is 19 years young boy. He is in jail since 2-7-2021. Charge sheet has been filed. Therefore, he may be enlarged on bail.

5. On the other hand, State Counsel opposed the bail application submitting that the applicant along with his associates abducted the minor victim prosecutrix and committed gang rape with her. In identification parade, victim/prosecutrix has also identified the applicant as accused. Charge sheet has been filed, but victim has not been examined, therefore, looking to the nature and gravity of the offence, applicant is not entitled to be enlarged on bail.
6. The victim/prosecutrix appeared along with her mother, grand mother and uncle before this Court. The prosecutrix and her mother submitted that they have no objection if applicant is granted bail.
7. I have heard counsel for both the parties and perused the case diary and material available on record.
8. Although the victim/prosecutrix and her mother have submitted no objection with regard to bail application filed by the applicant, but as stated by State counsel, they have not been examined before the trial Court. Considering the facts and circumstances of the case, nature and gravity of the offence, and also taking into consideration that the victim/prosecutrix has identified the applicant in identification parade, I do not feel inclined to allow this bail application filed by the applicant under Section 439 of the Cr.P.C.
9. However, it is made clear that the applicant may revive his prayer after deposition of material witnesses in the Court.
10. The bail application is rejected.

Sd/-
(N.K. Chandravanshi)
Judge