

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7134 of 2021**

- Fulsai Son Of Dakhalsai Aged About 20 Years Caste - Gond, R/o Village - Shardapur, Police Station - Chalgali, Tahsil- Wadrafnagar, District - Balrampur-Ramanujganj (Chhattisgarh)

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station- Ramkola, District- Surajpur (Chhattisgarh)

---- Respondent

For Applicant : Shri Rahul Mishra, Advocate

For Respondents/State : Shri Ravi Bhagat, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order****15/09/2021**

1. Heard.
2. This is the Third Bail Application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 21.12.2020 in connection with Crime No.25/2020 registered at Police Station Ramkola, District Surajpur (CG) for the offence punishable under Section 376 of Indian Penal Code.
3. The First Bail Application bearing M.Cr.C. No.2086 of 2021 was dismissed for want of prosecution on 07.07.2021. The second bail application bearing MCRC No.5879 of 2021 was dismissed on 17.08.2021.
4. As per the prosecution case, a report was lodged by the complainant/prosecutrix on 17.12.2020 that in between 13.04.2018 to

03.12.2020 the applicant committed sexual intercourse on the pretext of marriage, thereafter, when the marriage was fixed and the cards were distributed, the applicant refused to marry and did not turn up on the date of marriage. Therefore, the report was lodged.

5. Learned counsel for the applicant submits that the prosecutrix has been examined and the statement of the prosecutrix would show that she was a consenting party and on the pretext of marriage sexual intercourse was not committed as the prosecutrix was aged about 32 years and the applicant was younger, therefore, no forceful rape has been committed, therefore, the applicant may be released on bail.
6. Per contra, learned State counsel opposes the prayer for grant of bail.
7. After going through the statement of the prosecutrix which is placed on record, what was the *mens rea* on the date of exploiting the girl is to be examined by the trial Court. What was the intention of the applicant while doing the sexual intercourse cannot be adjudicated while hearing the bail application. Considering the statement of the prosecutrix, I am not inclined to release the applicant on bail. The trial Court shall be at liberty to evaluate the evidence at trial without being influenced by rejection of this bail application.
8. Accordingly, the bail application is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu