

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7865 of 2021**

1. Shailesh Kumar Sahu, (wrongly mentioned Sailesh in the order passed by the Hon'ble Court), S/o Shri Bansh Lal Sahu, aged about 35 years, resident of Village Sakariya, PS Khadganwa, District Koriya (CG)

---- Applicant**Versus**

- State Of Chhattisgarh Through the Police Station Khadganwa, District Koriya (CG)

---- Non-Applicant

For Applicant	: Shri VK Pandey, Advocate.
For Non-Applicant	: Shri DC Verma, Govt. Advocate.

Hon'ble Shri Deepak Kumar Tiwari, J**Order On Board****26/10/2021 :**

1. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No.139/2021 registered in Police Station Khadganwa, District Koriya for offence under Section 376, 450 & 323 of the IPC.
2. This is the 2nd bail application on behalf of the applicant. The first bail application was dismissed on 27th July, 2021 (MCRC No.3975/2021) reserving liberty in favour of the applicant to revive the prayer after examination of the prosecutrix.
3. Case of the prosecution, in brief, is that the applicant is the neighbour of the prosecutrix, who is a married woman. At about 11 pm on 30.4.2021, the applicant committed house trespass in the house of the prosecutrix and after enquiring about her husband and on finding that he was not present in the house, he pushed the prosecutrix over bed and committed forcible sexual intercourse with her, which was resisted by the

prosecutrix whereupon the applicant assaulted her. The injuries sustained by the prosecutrix during the assault has been found positive in the MLC.

4. Learned counsel for the applicant submits that there was an affair between the applicant and the prosecutrix, but since husband of the prosecutrix has seen both of them in a compromising position, therefore, after assaulting the prosecutrix, he roped the applicant in the alleged crime. The applicant is a handicapped person, therefore, it is impossible for the applicant to commit rape with the prosecutrix without her consent. The applicant is in jail since 4.5.2021. Learned counsel for the applicant has drawn attention of the Court towards the deposition of the victim's husband, who has stated that mobile No.8435195656 is possessed by him. However, learned counsel pointed out the call details of several dates which were made during odd hours from this mobile to the accused' mobile. Even though on the date of the incident i.e. 30th April, 2021 at about 22.54 hours and 22.55 hours, call details were recorded. Though the victim has categorically denied in her statement that she is having an affair with the applicant, however, looking to the facts and circumstances of the case, learned counsel submits that the applicant may be released on bail.
5. On the other hand, learned State Counsel opposes the bail application.
6. Considering the facts and circumstances of the case and the nature of evidence, without commenting anything on the merits of the case and the fact that the applicant is a handicapped person having 52% disability, this Court is inclined to release the applicant on bail.
7. Accordingly, the application is allowed and the applicant is directed to be released on bail on his executing a personal bond for a sum of Rs.10,000/- with one surety for the like amount to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

Sd/-
(Deepak Kumar Tiwari)
Judge