

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7758 of 2021**

- Vishvanath Nagvanshi S/o Bhikhau Ram Aged About 24 Years R/o Khandadorna, Police Station Sitapur, District- Surguja, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through- The Station House Officer, Police Station Sitapur, District- Surguja, Chhattisgarh.

---- Respondent

 For Applicant : Shri Rahul Agrawal, Advocate
 For Respondent/State : Shri Ajay Kumrani, Panel Lawyer

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****25.11.2021.**

1. This is second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested on 24.12.2020 in connection with Crime No.207/2020 registered at Police Station Sitapur Distt. Surguja (C.G.), for the offence punishable under Sections 363, 366, 376(2) (ढ) & 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 5(ढ) & 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act'). First bail application of the applicant was dismissed on merit by this Court vide order dated 29.7.2021 in MCRC No.835/2021.

2. Brief facts of the case are that on the date of incident, the minor prosecutrix was abducted by the applicant and co-accused person, thereafter, the applicant took her to village Guturma, then Raigarh, then Puna. The applicant kept her with him from 07.11.2020 to 18.12.2020 and committed rape with her.

3. Learned counsel for the applicant submits that after rejection of first bail application, the victim/prosecutrix and her father have been examined before the Court below, but they have been declared hostile by the prosecution as they have not supported the

case of the prosecution at all. He would next submit that co-accused has been granted bail by the coordinate Bench of this High Court and since material witnesses have not supported the case of the prosecution, nothing remains in this case now, therefore, the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application.

5. The victim/prosecutrix along with her father appeared before this Court through Video Conferencing from District Legal Services Authority, Ambikapur. Both of them have submitted that they have no objection if bail is granted to the applicant.

6. I have heard learned counsel for the parties, perused the case diary and the material available on record.

7. Considering the facts and circumstances of the case, particularly taking into consideration deposition of the victim/prosecutrix and her father recorded before the trial Court [certified copy of same has been filed by the applicant (Annexure A/3 – Page 16-26)] and taking into consideration that no objection has been made by the victim and her father regarding the bail application filed by the applicant before this Court, co-accused has already been granted bail, detention period of the applicant, I feel inclined to allow the bail application. Therefore, the application under Section 439 of the CrPC is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs.50,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.

Certified copy as per rules.

Sd/-
(N.K. Chandravanshi)
JUDGE