

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7836 of 2021**

- Kamlesh Sahu S/o Shri Gopal Sahu, aged about 21 years, R/o Village Jhal, Thana & Tahsil - Nawagarh, Distt. Bemetara (CG)

---- Applicant (In Jail)**Versus**

- State of Chhattisgarh through Station House Officer, Police Station Nawagarh, District Bemetara (CG)

---- Non-applicant

For Applicant	:	Mr. Sunil Sahu, Advocate
For Non-applicant	:	Mr. Raghvendra Verma, Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****16.11.2021**

1. This is first application filed under Section 439 of CrPC for grant of regular bail to applicant, who is in custody since 19.8.2021 in connection with Crime No.301/2021 registered at Police Station Nawagarh District Bemetara (CG) for commission of offence punishable under Sections 363, 366, 376 (2) (n), 376 (3) IPC; Section 6 of POCSO Act & Section 3 (2) (v) of SC & ST (Prevention of Atrocities) Act, 1989.
2. Case of the prosecution, in brief, is that on 1.8.2021 applicant eloped the prosecutrix and took shelter in the house of her mother who after deserting her husband is residing in Hyderabad (Andhra Pradesh). During stay in Hyderabad, applicant forcibly committed sexual intercourse with prosecutrix and thereafter threatened her not to disclose incident to anyone. Father of prosecutrix lodged missing report of prosecutrix in concerned police station. In the course of investigation, the prosecutrix was recovered from her mother's house at Hyderabad. Statement of prosecutrix was recorded, based upon which applicant was arrested.
3. Mr. Sunil Sahu, learned counsel for applicant would submits that it is

prosecutrix who herself went to Hyderabad, applicant met her on the way. Prosecutrix resided in her mother's house in Hyderabad. As applicant also went out of his village, he also took shelter in the house of mother of prosecutrix. Applicant has not committed any offence as alleged against him. Prosecutrix was recovered from the house of her mother and not from any other accommodation along with applicant. Applicant is in jail since 19.8.2021, hence he may be enlarged on regular bail.

4. Per contra, Mr. Raghvendra Verma, learned Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that age of victim/prosecutrix is less than 16 years. As per allegation, applicant eloped with prosecutrix and went to Hyderabad. During their stay in the house of mother of prosecutrix in Hyderabad, applicant committed forcible sexual intercourse with her in absence of her mother. She was also threatened by applicant. Hence, applicant is not entitled for grant of regular bail.
5. Even after service of notice, neither complainant nor prosecutrix is present. It is informed that prosecutrix was present today through virtual mode from DLSA, Bemetara, however, due to technical issue she got disconnected.
6. I have heard learned counsel for the parties.
7. Taking into consideration the nature of allegations levelled against applicant and age of prosecutrix, which is less than 16 years, I am not inclined to grant regular bail to applicant. Accordingly, application is rejected.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-