

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8099 of 2021**

Mitrabhanu Yadav S/o Chaitan Yadav, Aged About 34 Years,
R/o Village Gadhabhata, Police Station and Tahsil Basna,
District Mahasamund Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through The Station House Officer,
Police Station Basna, District Mahasamund Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Shivendu Pandya, Advocate
For Non-applicant/State : Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****27.10.2021**

1. This is second application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 04.10.2020 in connection with Crime No.468 of 2020 registered at Police Station Basna, District Mahasamund (C.G.) for commission of offence punishable under Sections 376 and 450 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that applicant on the date of incident, went to the house of prosecutrix and has requested for drinking water. When prosecutrix entered into her house for bringing water, applicant entered into house, caught hold of her and committed forceful intercourse with her. The incident was reported to the concerned Police Station, based upon which, instant crime was registered and applicant was arrested.

3. Mr. Shivendu Pandya, learned counsel for the applicant would submit that first application was withdrawn with liberty to revive after examination of material witnesses. Prosecutrix, her son and grandson have been examined as PW-5, PW-6, PW-7 and they have not supported the case of prosecution. In the evidence of prosecutrix, it has only come that applicant has assaulted her. Applicant is in jail since 04.10.2020, hence, he may be enlarged on regular bail.
4. Per contra, Mr. Sudeep Verma Dy. Govt. Advocate for the State opposing the submissions made by learned counsel for the applicant, would submit that evidence cannot be appreciated at this stage, hence, application may be dismissed.
5. I have heard learned counsel for the parties.
6. Taking into consideration facts and circumstances of the case, nature of allegations and further period of detention, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
7. Accordingly, the second application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.

b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Yogesh