

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8336 of 2021

- Mahendra Singh Markam S/o Shri Roopdayal Aged About 25 Years
Occupation Service (Peon District Hospital Balrampur) R/o Village
Chunapather Police Station Sanawal District Balrampur-Ramanujganj
Chhattisgarh
---- **Applicant (In jail)**

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station
Balrampur, District Balrampur-Ramanujganj Chhattisgarh
---- **Respondent**

For Applicant : Shri Arun Kumar Shukla, Advocate
For Respondent/State : Shri Raghavendra Verma, GA

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

06.12.2021

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No.166 of 2021 registered at Police Station- Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh for the offence punishable under Sections 376, 354, 364, 506, 323, 342 and 34 of the IPC and and Sections 4 and 6 of POCSO Act.

2. Case of the prosecution, in brief, is that prosecutrix lodged a written report on 07.09.2021 stating there that one Jawahir Saruta in the year 2016 has committed forceful sexual intercourse with her in the forest. When prosecutrix came to Balrampur for persecuting her computer course, co-accused Jawahir Saruta made mobile call to her on 07.09.2021 and called her to Collector Office. When she reached there, he forcefully took her in Scorpio vehicle to house of present applicant and tried to outrage her modesty. When she started screaming, applicant came there

and rescued her. Thereafter, she was left in her own house. Based on report, aforementioned crime was registered against applicant, as well as Jawahir Saruta.

3. Shri Arun Kumar Shukla, learned counsel for the applicant submits that allegation of commission of forceful sexual intercourse and also of making attempt to outraging modesty of prosecutrix on 07.09.2020 is against Jawahir Saruta and not on applicant. In statement recorded under Section 161 and 164 of CrPC, as well as in written complaint, it is mentioned that present applicant rescued prosecutrix from co-accused Jawahir Saruta. Applicant is not involved in offence in any manner as alleged against him. Applicant is in jail since 09.09.2021 hence he may be enlarged on bail.

4. Shri Raghavendra Verma, learned State counsel opposing the submissions of learned counsel for the applicant, submits that as per contents of written complaint, prosecutrix was taken by Jawahir Saruta in Scorpio vehicle of applicant, as also in house of applicant. Hence, there is *prima facie* involvement of applicant in commission of crime. However, upon putting specific query with regard to participation of applicant in commission of crime, he upon reading over FIR as well as statement of prosecutrix recorded under Section 161 and 164 CrPC, submits that in contents of FIR and statement it is mentioned that applicant has rescued prosecutrix from Jawahir Saruta.

5. Prosecutrix is present along with her father through virtual mode from DLSA- Balrampur. She raised her objection in granting bail to applicant.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations against applicant, contents of FIR and statement of prosecutrix, facts and circumstances of case, nature of accusation against applicant, and considering age of prosecutrix on the date of lodging of FIR to be 22 years, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the concerned Court on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant 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