

NAFR

**HIGH COURT of CHHATTISGARH, BILASPUR****MCRC No. 8224 of 2021**

- Vinay Kumar Chouhan S/o Late Shri Vishwas Shersingh Chouhan aged about 32 Years R/o Village Koramkunda, Thana-Sarsiwa, Civil and Revenue District Balodabajar-Bhatapara, Chhattisgarh

**-----Applicant****VERSUS**

- State of Chhattisgarh through: Station House Officer Police Station Sarsiwa, District Balodabajar-Bhatapara

**-----Non-applicant**


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| For Applicant           | : Mr. C.R. Sahu, Advocate        |
| For Non-applicant/State | : Mr. Roshan Dubey, Panel Lawyer |

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**Single Bench: Hon'ble Shri Parth Prateem Sahu, Judge****ORDER****08/12/2021**

1. First Bail application filed by applicant under Section 439 of CrPC was dismissed on merits vide order dated 09.10.2020. Applicant has filed this Second bail application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 165/2020 registered at Police Station Sarsiwa, District Balodabazar-Bhatapara, (C.G.) for the offence punishable under Section 376, 506 of IPC.
2. Learned counsel for applicant submits that after rejection of first bail application for grant of bail, prosecutrix was examined before the Trial Court on 18.08.2021, thus, this second bail application is filed.
3. Case of prosecution is, that written report is filed by prosecutrix on 20.04.2020 stating therein that on 18.04.2020 at about 09:30 when she was cooking food and her husband was out of the house at that relevant time applicant came to her and committed forceful sexual intercourse. At the time of commission of alleged offence by

applicant, husband of prosecutrix came to house who saw the incident. Based on the written report, crime was registered and applicant was arrested on 20.04.2020.

4. Mr. C.R. Sahu, learned counsel for the applicant would submit that there is property dispute between applicant and husband of prosecutrix and she lodged false report against him. Prosecutrix was examined before the trial Court as witness number 1, wherein she has not supported the case of prosecution. Applicant is in jail since 20.04.2020, hence he may be enlarged on regular bail.
5. Mr. Roshan Dubey, learned State counsel, while opposing the submissions made by the learned counsel for the applicant, would submit that specific allegations have been levelled in FIR as well as statement of prosecutrix recorded under Section 161 and 164 of CrPC. However, he does not dispute the submission of learned counsel for applicant with regard to court statement of prosecutrix filed as Annexure A-3.
6. I have heard learned counsel for the respective parties.
7. Taking into consideration, the facts and circumstances of the case, submission of learned counsel for applicant that the prosecutrix in her court statement has not supported case of prosecution, period of detention of applicant since 20.04.2020, without commenting anything on merits, I am inclined to allow the bail application.
8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that-

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

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

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

Certified copy as per rules.

Sd/-  
**(Parth Prateem Sahu)**  
Judge

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