

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 8768 of 2021**

Hemant Kumar Rathiya, S/o Ramkumar Rathiya, Aged About 25 Years R/o H.No. 28, Nichepara, Binjkot Kharsia, Tahsil Kharsia, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- **Applicant**

**Versus**

State Of Chhattisgarh Through P.S. Bhupdeopur, Tahsil Kharsia District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- **Respondent.**

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For Applicant : Mrs. Indira Tripathi, Advocate.

For Respondent/State : Mr. Anurag Verma, PL  
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**Hon'ble Smt. Justice Rajni Dubey**  
**Order On Board**

**16.12.2021**

This first application under Section 439 of the Code of Criminal Procedure has been filed by the accused/applicant, who is languishing in jail since 04.10.2021 in connection with Crime No. 214/2021 registered at Police Station Bhupdeopur, Tahsil Kharsia, District Raigarh for the offence punishable under Sections 376,506 IPC.

2. The prosecution case in nutshell is that on the date of incident when the prosecutrix was returning to her home at that time the applicant had taken advantage of her loneliness and committed forcefully rape with the prosecutrix. The prosecutrix narrated the incident to her family members then the report was lodged against the applicant in police station.

3. Learned counsel for the applicant submits that the applicant has been roped in a false and fabricated case and therefore, he may be set at liberty by granting bail. She again submits that the statement of prosecutrix recorded under Section 164 CrPC, in which she has not stated anything against the applicant. He further submits that the applicant would abide by all terms and conditions imposed on him while granting bail.

4. Learned State counsel however puts forth his vehement opposition to the prayer for bail.

5. Having heard counsel for the parties, taken into consideration the facts that the prosecutrix in her statement recorded under Section 164 CrPC, in which she has not stated anything against the applicant and turned hostile, this Court is of the opinion that the accused/applicant is entitled for bail. Accordingly, the application is **allowed** and it is directed that on applicant's furnishing a personal bond in the sum of Rs. 25,000/- with one solvent surety to the satisfaction of the concerned Court, he shall be released on bail. The applicant however, shall ensure his appearance before the trial Court as and when so directed, till the disposal of the case. Order accordingly.

Sd/-

**(Rajni Dubey)**  
**Judge**