

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 2505 of 2023

Sunil Nishad S/o Shiv Kumar Nishad, Aged About 23 Years R/o. Ward No. 08, Achholi Hiranagar, Ps. Urla, District : Raipur, Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh Through Police Station Urla, District : Raipur, Chhattisgarh

----Non-applicant

For Applicant	Shri Pragalbha Sharma, Advocate.
For State	Shri Arjit Tiwari, P.L.

Hon'ble Shri Justice Sachin Singh Rajput
Order on Board

28/04/2023

1. It has been informed by the State counsel the notice to victim has already been served.
2. This is the Second Bail Application filed under Section 439 of Code of Criminal Procedure.
3. First bail application was dismissed as withdrawn vide order dated 25/01/2023 in MCRC No.10656 of 2022.
4. Applicant has arrested in connection with Crime No.111/2022 registered at Police Station Urla, District Raipur (C.G.) for the offence under Sections 341, 354(a)(1)(ii), 294, 323, 506, 427, 307, 34 of IPC, Section 12 of POCSO Act and 25, 27 of Arms Act.
5. The brief facts of the case is that on 18/03/2022, complaint was given by the prosecutrix that when she was going home at about 4 p.m. the applicant along with the co-accused came and intercepted her, threatened to commit rape, used abusive language, assaulted her and damage her vehicle, when she was rescued by Mandeep, Tilak and Uday they started assaulting them due to which Mandeep sustained injuries.
6. Learned counsel for the applicant submits that the prosecutrix and the injured have been examined and their statements do not inspire confidence. He further submits that the applicant is in jail since 20/03/2022 and thus has already remained in jail for more than one year. He submits that in the cross-examination prosecutrix has totally denied the incident. Therefore, looking to the detention period and overall material on record, the application may be allowed.

7. Opposing the bail application learned State counsel submits that the appreciation of the evidence is in the domain of the trial Court and looking to the overt act, the application may be rejected.
8. Heard learned counsel for the parties, considered their rival submissions.
9. Looking to the facts and circumstances of the case, nature of allegations, overt act alleged, evidence collected, submissions of the learned counsel for the parties, admittedly the applicant is in jail since 23/03/2022 remained in jail for more than one year, trial is likely to take some time without commenting anything on merits, I am inclined to allow the bail application of the applicant. Accordingly, the bail application is **allowed**. It is directed that in the event of applicant executing a personal bond for a sum of **Rs. 25,000/-** with one surety to the satisfaction of the concerned Trial Court, he shall be released on bail on the following conditions:-
- (i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court
 - (ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - (iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
 - (iv) he shall not involve himself in any offence of similar nature in future.
 - (v) he is restrained from meeting any of the prosecution witnesses till the conclusion of the trial.
10. It is made clear that these observations are only for the purposes of deciding the bail application. The trial Court will decide the case on its own merits without being influenced by any observation made herein-above.
11. The applicant shall not influence any of the witnesses acquainted with the facts of the case in any manner whatsoever, and that if anything like this comes to the notice of the Court below, it may cancel the bail granted to him.

Sd/-

Sachin Singh Rajput
Judge