

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>BA2 No.175 of 2022</p> <p><b><u>Hon'ble R.C. Khulbe, J.</u></b></p> <p>Mr. Amit Kapri, learned counsel for the applicant.</p> <p>Mr. Dinesh Chauhan, learned B.H. for the State.</p> <p>This is the second bail application moved on behalf of the applicant-Gopal Singh Mehra, who is in judicial custody in connection with Case Crime/FIR No.26/2021 u/s 323, 325, 452 and 376 IPC, registered at P.S. Gangolihat, District Pithoragarh, has sought his release on bail.</p> <p>The first bail application was dismissed by this Court vide order dated 22.10.2021.</p> <p>It is argued that the accused has been falsely implicated; he is languishing in jail since 29.08.2021; there is no criminal history nor any evidence against him; at the time of incident, as per the prosecution's story, her son and mother-in-law were present at the same house but they did not see the accused; the statement of victim, her husband and the doctor has already been recorded; there is no chance of tampering with the evidence; there is a contradiction in the evidence of PW1 and PW2 regarding the timing of incident; he is ready to furnish the sureties and may be granted bail.</p> <p>Per contra, learned counsel for the State opposed for bail.</p> <p>As per the FIR, on 28.08.2021 at about 8:30 p.m., the accused entered into the house of the informant, committed rape with her and also committed <i>marpeet</i> with her; the victim submitted the information with the police station on 29.08.2021 at 01:20 a.m.; her statement was recorded under Section 161 as well as under Section 164 Cr.P.C.; she was medically examined; the medical report is on record; she appeared as PW1 in the Court; at the time of recording her statement, she narrated the entire story and also identified the accused, who was very much present before the</p>

Court.

PW2, who is the husband of the victim, stated that when he reached the home, her wife (victim) was weeping; there was an injury found on her body; accordingly, he made a call to 108 - ambulance service and took his wife to the hospital where she was medically examined; and, accordingly, report was submitted with the police station.

PW3 is the doctor, who examined the victim and prepared the medical report; as per the medical report, there were injuries found on the body of the victim.

As regards the time of incident is concerned, as per the FIR, the accused entered into the house of the victim at about 08:30 p.m. PW1, who is the victim, in her examination repeated the same time; although PW2, who is the husband of the victim, stated in his examination-in-chief that he reached home at about 08:00 p.m. and found that his wife was weeping and she narrated the incident before him.

We cannot assess the entire evidence at this stage, particularly, during hearing on the bail application but, from the perusal of the evidence, *prima facie*, the Court found that the victim has narrated the entire story not only at the time of recording of her statement under Section 161 and 164 Cr.P.C. but also at the time of recording her statement before the witness box; accordingly, looking to the gravity of the offence, it is not a fit case for bail at this stage.

The instant second bail application is thus, dismissed.

Pending application, if any, stands disposed of.

**(R.C. Khulbe, J.)**

**23.09.2022**