

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5023 OF 2015**

Anil Tiwari son of Thakur Das Tiwari aged about 20 years resident of Amra Police Station Moth District Jhansi (U.P. at present resident of near Agrasen Bhawan Tatibandh, Raipur Tahsil and District Raipur (C.G.)

---Applicant

Versus

State of Chhattisgarh through the Station House Officer Police Station Pandri, Raipur District Raipur (C.G.)

---Non-applicant

For Applicant	:	Mr. Goutam Khetrapal, Advocate
For Non-applicant	:	Mr. S.R.J. Jaiswal, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****22/09/2015**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No. 152/2015, registered at Police Station Pandri, Raipur District Raipur (C.G.), for the offence punishable under Sections 363, 366, 376, 342 of IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution, in brief, is that on 22/06/2015, applicant is said to have kidnapped the minor prosecutrix and committed forcible sexual intercourse with her and thereby committed aforesaid offence.

3. Learned counsel for the applicant would submit that applicant has not committed any offence and has been falsely implicated in the offence in question. He would further submit that written report has been lodged on 22/06/2015 and statement of prosecutrix under Section 161 of Cr.P.C. has

been recorded on 23/06/2015, in which, prosecutrix has not made any allegation of rape against the present applicant. He would further submit that after the FIR, on 25/06/2015 she first time made statement under Section 164 of Cr.P.C. and on 30/06/2015 supplementary statement under Section 161 of Cr.P.C. has been recorded, in which, allegation of rape has been leveled upon the present applicant by the prosecutrix, which is absolutely false. He would further submit that prosecutrix is major aged about 18 years. He would lastly submit that charge sheet has been filed and applicant is in jail since 25/06/2015 therefore, he may be released on bail.

4. On the other hand, learned counsel for the State would oppose the bail application.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; role of the present applicant in offence in question; taking into account the fact that written report has been lodged on 22/06/2015 and variation in statements recorded on 23/06/2015 & 30/06/2015 under Section 161 of Cr.P.C.; charge sheet has already been filed and pretrial detention of the applicant, this Court is of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on furnishing a personal bond in the sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

9. Certified copy as per rules.

Tiwari

Sd/-
(Sanjay K. Agrawal)
JUDGE