

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3654 of 2017

- Dhanesh Sahu S/o Raghuram Sahu Aged About 22 Years R/o Village - Dunda, Police Station - Mujgahan, Tahsil & District - Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station - Mujgahan, District - Raipur, Chhattisgarh.

-----Respondent

For Applicant : Shri Awadth Tripathi, Advocate.

For Respondent : Smt. M. Asha, Panel Lawyer for the State.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

On 14.06.2017.

This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with crime No.127/2016 registered at Police Station Mujgahan, Distt. Raipur for the offence punishable under Sections 376, 506, 34 of the Indian Penal Code.

2. As per the case of the prosecution, present applicant and co-accused Sohail Khan are said to had physical relationship with the prosecutrix, aged about 17 years and 2 months, and during the course she got conceived and on medical examination it was detected that she was carrying pregnancy of five months. Later on report was made on 16.10.2016 on the basis of which FIR has been registered.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated, he is a relative of the prosecutrix and it is not the applicant who had physical relationship with the prosecutrix but the prosecutrix had implicated him at the behest of Sohail Khan and his wife as it evident from the

statement of the witnesses recorded during the course of investigation. He further submits that name of the applicant has been added in the case so as to protect the co-accused Sohail Khan and same has been done at the behest of the wife of co-accused in whose house the prosecutrix was working as domestic maid. Learned counsel for the applicant refers to the statement recorded under Section 161 of the Cr.P.C. on 19.10.2016 wherein the statement of the prosecutrix, mother of the prosecutrix and neighbours of the place where the prosecutrix resides were recorded and all of them have categorically stated that on query being put by the mother of the prosecutrix, as to who had physically exploited her, the prosecutrix named the husband of Arshi Bhabhi, i.e. Sohail Khan to have committed the offence. The prosecutrix further admitted the fact that she was forced by Arshi Bhabhi to name the present applicant so as to save her husband, the co-accused, who is said to have committed the offence. In the statement recorded under Section 161 of Cr.P.C. available in the case diary, the prosecutrix clearly mentioned that it was the husband of Arshi Bhabhi who on various occasions made physical relationship with her and on account of which she got conceived.

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

5. I have heard the counsel appearing for the parties.

6. Having considered the total facts and circumstances, particularly statement of the prosecutrix made under Section 164 of the Cr.P.C. during the course of investigation, 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 the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with two solvent sureties in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(P. Sam Koshy)
Vacation Judge

Bini