

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4400 of 2017

- Ibrar Husain, S/o Sarojuddin Ansari, Aged About 24 Years, R/o. Village Dolgi, P.S. Ramchandrapur, District Balrampur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station - Ramchandrapur, District Balrampur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Shakti Raj Sinha, Advocate.

For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-10-2017

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicant. The applicant held arrested on 18-03-2017 in connection with Crime No.12/2017 registered at P.S. Ramchandrapur, District Balrampur, C.G. for the offence under Section 376(2), 366 of the IPC and Section 5(3)/6 of Protection of Children from Sexual Offences Act, 2012 and Section 3(2-4) of the SC/ ST Act.

2. It is submitted on behalf of the applicant that the applicant had love affair with the prosecutrix since 2013. She was a minor at that time, but the applicant waited for her attaining majority and then they performed marriage, of which affidavit has been seized in the investigation. Later on the applicant has again married with the prosecutrix in Dargah at Ajmer. On both these occasions, the prosecutrix was major. Vague statements have been made by the prosecutrix about the starting physical relationship with the applicant. The case has been investigated and charge sheet has been filed. The applicant is in jail since 18-03-2017. The trial is likely take some time. Hence, it is prayed that the applicant may be enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the application and submission made in this respect. It is submitted that as per the statement of the prosecutrix, her physical relationship with the applicant started in the year 2013 and she was minor at that time, hence, the consent of the minor is immaterial in such case, hence for these reasons offence against the applicant is made out. Therefore, he may not be enlarged on bail.

4. Heard learned counsel for both the parties and perused the case diary.

5. As submitted the case is already pending for trial, after consideration of the contents of the case diary, and the submission of the applicant, which may be ground for his defence in the case and also particularly taking into consideration the nature of the case, I am of this view that keeping the applicant in detention till conclusion of the trial would not serve any purpose, hence, for these reasons the applicant should be enlarged on bail.

6. Consequently, the application (MCRC No.4400/2017) filed under Section 439 of the Cr.P.C. by the applicant is hereby allowed. It is directed that the applicant shall be released on bail on his 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.

7. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge