

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 523 of 2018

- Homprakash @ Golu Pandey S/o Dilip Pandey, Aged About 22 Years, R/o Lilesar, Post Bundeli, Police Station Pithora, and District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P. S. Tikrapara, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Smt. N.K. Kashyap, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-03-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 01-11-2017 in connection with Crime No.516/2017 registered at P.S. Tikrapara, Raipur, District Raipur, Chhattisgarh for the offence under Section 366, 363, 376 of the IPC and Section 3, 4 of the Protection of Children from Sexual Offence Act, 2012.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The applicant and the prosecutrix had love affair between them. The prosecutrix in this case is though minor, but she has not made any allegation against this applicant in her first statement under Section 161 of the Cr.P.C.on 28-10-2017. Later on, the prosecutrix has made development and improvement in her statements under the pressure of her parents. The applicant is in jail since 01-11-2017 and he is ready to abide by all the conditions to be imposed on grant of bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that on the date of incident the prosecutrix was 16 years 11

months of age, hence her consent or previous relation with the applicant is immaterial. Therefore, no case is made out for grant of bail.

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

5. According to the prosecution case, the prosecutrix went missing on 03-10-2017 and she appeared before the police on 28-10-2017 and gave statement for the first time. The missing report and FIR was lodged by father of the prosecutrix earlier on 04-10-2017. On the basis of statement given by the prosecutrix in her supplementary statement recorded on 31-10-2017 and her statement under Section 164 of the Cr.P.C. recorded on 02-11-2017 the offences have been registered against this applicant.

6. Considered on the material present in the case diary. The argument submitted on behalf of the applicant finds some support from the material present in the case diary itself. Hence, for these reasons, I am of this view that this applicant should be released on bail during pendency of the trial against him.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail 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 Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge