

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2069 of 2018

- Nyamtulla @ Niyamattulla S/o Late Shamim Khan, Aged About 34 Years, R/o- Village Near Salba Forest Barrier, Police Station Baikunthpur, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Of Police Station- Charcha, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

----Non-applicant

For Applicant – Shri Anil Gulati, Advocate.

For Non-applicant/State – Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-06-2018

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 21-07-2017 in connection with Crime No.93/2017 registered at P.S. - Charcha, District- Korea, Chhattisgarh for the offence under Section 363, 366, 368, 376, 342, 506, 323, 347, 420, 193, 196 and Section 3, 4, 5 & 6 of Protection of Children from Sexual Offence Act and Section 3(1)(12), 3(2)(5), 3(1)(B) (i) (ii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in jail since 21-07-2017. No case is made out against this applicant. The prosecutrix, the victim in this case, is above 18 years of age and she was a consenting party, because of which, there had been a long cohabitation between the applicant and the prosecutrix. Hence, it is prayed that the applicant may be released on regular bail.

3. Learned counsel for the State/non-applicant opposes the application

submitting that the prosecutrix is constant in her allegation against this applicant about commission of the offence of rape in her statements under Section 161 and 164 of the Cr.P.C. and she is yet to be examined before the trial Court. Hence, the applicant is not entitled for grant of bail.

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

5. The applicant is an agent of Life Insurance Company, on the pretext that he will issue a policy for the prosecutrix he called the prosecutrix and took her to the house of co-accused in Pratappur, where putting her under threat he committed rape with the prosecutrix who is minor being of age below 18 years. Thereafter, he continued the sexual exploitation of her on a number of occasions and kept the prosecutrix in his confinement. The prosecutrix found an opportunity to make her escape and then she has lodged the FIR. The prosecutrix is also a member of Scheduled Tribes. Hence, the offences were registered.

6. Considering on the material present in the case diary, I do not find this to be a fit case for grant of bail to the applicant.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge