

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 2114 of 2019

- Kundan Yadav S/o Rajesh Yadav Aged About 20 Years R/o Near Sakin Sumerumath, Professor Colony Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
---- Applicant

Versus

- State Of Chhattisgarh Through Amanaka Civil And Revenue District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
---- Non-applicant

For Applicant : Shri Akash Kumar Kundu, Advocate.
For Non-applicant : Shri Washim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

24.06.2019

1. Informant / mother of the prosecutrix Smt. Pooja Mehra is not present though notice has been served upon her for her appearance on 17.05.2019, on that date also she was absent.
2. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
3. Perused the case diary provided by the learned counsel for the State in connection with crime No. 104/2018 registered at Police Station – Amanaka District – Raipur (C.G.) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Section 4 of the POSCO.
4. Case of the prosecution, in brief is that on 14.08.2018 prosecutrix was below 14 years of age. She is resident of Raipur. There was love affair between her and applicant. On 14.08.2018 she had gone along with applicant in his house, thereafter applicant committed repeatedly sexual intercourse with her.
5. Learned counsel for the applicant submitted that the applicant has no criminal background, he is innocent, he further submitted that FIR is delayed. Prosecutrix had stated in her statement recorded by the Child Welfare Committee, Raipur that she had herself made physical relationship with applicant voluntarily, thus, he shall be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however submitted that there is no antecedent against the applicant.
7. The statement of the prosecutrix has been recorded by the trial Court wherein she had stated against the applicant during her examination in chief.
8. Looking to the facts and circumstances of the case, looking to the fact that on 14.08.2018 prosecutrix was below 14 years of age, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected.
9. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE