

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3350 of 2019

- Hussain S/o Nishar Ahmad, Aged About 28 Years, Caste Eraki, R/o Masjid Dafai, P. S. and Tehsil Manedragarh District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Manedragarh, District Koriya Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

For Applicant – Shri Pushkar Sinha, Advocate.

For Non-applicant/State – Shri Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-07-2019

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 17-05-2018 in connection with Crime No.37/2018, registered at Police Station – Manendragarh, District- Koriya, Chhattisgarh for offence punishable under Section 376 (2) (n) of the IPC and Section 6 of POCSO Act and 3 (2) (5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) (in short 'Atrocities Act'), the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 17-05-2018. No case is made out against this applicant. The prosecutrix and her father both have been examined before the trial Court and both of them have not supported the prosecution case. Therefore, it is prayed that this applicant may be granted bail.

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

4. As the prosecutrix is shown to be of age 15 years, notice was issued

and has been served upon the informant of this case, but, nobody has turned up and neither he is represented.

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

5. According to the prosecution case, this applicant has raped the minor prosecutrix, the prosecutrix also happens to be a member of the Scheduled Castes, hence, on this basis offences have been registered.

6. Considered on the entire material present in the case diary and also perused the certified copy of the deposition of the prosecutrix and her father which has been filed along with the application. On perusal of the same, it appears that these witnesses have not at all supported the prosecution case. Therefore, looking to this development, I feel inclined to allow this application.

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