

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 172 of 2020

Sanjay Kanchi (Patel), S/o. Santosh Kanchi, aged about 20 years, R/o. Sakin Adarsh Mohalla, Jairam Nagar, Police Station Masturi, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station Masturi, District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Hariom Rai, Advocate
For Respondent/State	: Mr. Devendra Pratap Singh, Dy. A.G.
For Complainant/Objector	: Mr. Rahul Tamaskar, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/07/2020

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.377/2019, registered at Police Station – Masturi, District – Bilapur (C.G.) for the offence punishable under Section 376 of the Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant. Almost all the witnesses have been examined in the trial and the prosecutrix, who has also been examined has made

admission in her statement, which are in favour of the applicant. Similarly other witnesses, the aunt of the prosecutrix has also made admission in favour of the applicant. The discrepancies in the statement of the witnesses has made the applicant entitled for grant of bail. The evidence regarding the age proof brought by the prosecution is not conclusive and further the statement that has been given by the father of the prosecutrix also makes the age of the prosecutrix doubtful. Hence, it is prayed that the applicant may also be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the age of the prosecutrix was only 13 years and looking to the evidence present against this applicant, he is not entitled for grant of bail.
4. Counsel appearing on behalf of the complainant submits that prosecutrix has made categorical statement against the applicant in her statement before the Court, which has been supported by other witnesses also. Therefore, no case is made out for grant of bail.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, it is alleged that on the date of incident, this applicant forcefully took the prosecutrix in a lonely place and committed the offence of rape with her.

7. Considering on the submissions. The statement of the witnesses before the Court can not be appreciated by the Court considering bail application for the purpose of granting bail. Further it appears that prosecutrix, who has been examined before the trial Court is not a hostile witness, hence for these reasons, this Court is of the opinion that present is not a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram