

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1505 of 2020

- Jawaharlal Rathore S/o Late Heeralal Rathore, Aged About 60 Years, R/o Ghaghara, Police Station Kharsiya, Raigarh, Tahsil Kharsiya District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Office, Police Station Kharsiya, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

----Respondent/Non-applicant

For Applicant – Shri Sanjay Agrawal, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-03-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 17-03-2019 in connection with Crime No.115/2019 registered at P.S. - Kharsiya, District Raigarh, Chhattisgarh for the offence under Section 376(2)(h)(i)(n), 506(b), 34 of the IPC and Section 4 and 6 of Protection of Children from Sexual Offences Act 2012.

2. It is submitted on behalf of the applicant that this is second application filed by the applicant for grant of regular bail. His first application filed, MCRC 4828/2019 was dismissed as withdrawn on 20-08-2019 and the liberty was granted to file repeat bail application after examination of the prosecutrix. It is further submitted that this repeat bail application has been filed on the ground that it is more than one year that the applicant is in jail and there is no progress in the trial. The prosecutrix is not turning up before the trial Court for her examination. It is also submitted that otherwise also the story of the prosecution case is totally unbelievable as the prosecutrix has lodged the FIR for commission of offence of rape against her by five persons on five different occasions. One co-accused namely Hemant @ Mantu Rahore has been

granted bail by coordinate Bench of this Court in MCRC No.8528/2019 by order dated 14-02-2020, the applicant is also similarly placed. Therefore, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that there is direct allegation against the applicant made by the prosecutrix and the prosecutrix herself is a minor. Therefore, the application may be rejected.

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

5. According to the prosecution case, the prosecutrix is a minor girl who was firstly ravished and exploited by co-accused Hemant @ Mantu Rathore on pretext that he will marry her. Then, after some time one Kisan Kenwat also exploited her sexually. Subsequent to that, about two months before lodging of the FIR on 17-03-2019 this applicant exploited the prosecutrix sexually knowing well that she is a minor girl. The prosecution story further makes allegation against two more accused persons who also have ravished the prosecutrix before lodging of the FIR.

6. After considering the facts of the case and also that one similarly placed co-accused has been granted regular bail by the coordinate Bench of this Court, therefore, on the ground of parity 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