

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2507 of 2020

Rahul Dewangan, S/o. Ramesh Kumar Dewangan, aged about 21 years, R/o. Jabadapara, Police Station -Sarkanda, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicant	: Mr. Dharmesh Shrivastava, Advocate
For Respondent/State	: Mr. Adil Minhaj, G.A.
For Complainant	: Mr. R.K. Gupta, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

07/08/2020

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.75/2020, registered at Police Station – Sarkanda, District – Bilaspur (C.G.) for the offence punishable under Section 376, 34 of the Indian Penal Code and Section 4 & 6 of the Protection of Children from Sexual Offences Act.

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. There is no allegation against the applicant regarding the commission of offence of rape in the FIR and in the statement given by the prosecutrix. Further the FIR and the statement do not mention about the active participation of the applicant in commission of aforesaid offences. The applicant is in jail since 28.01.2020. It is further submitted that the complainant and the prosecutrix do not have any objection in grant of bail. It is prayed that the applicant may be released 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 according to the prosecution case, this applicant and other co-accused persons have actively participated in the commission of offence, which facilitated the commission of offence of rape with minor prosecutrix, therefore, he is not entitled for grant of bail.
4. Complainant Shambhu Shankar Mishra along with the prosecutrix is present today before this virtual Court through Help Desk of this High Court along with their counsel Mr. R.K. Gupta, Advocate. He has stated that he has no objection in grant of bail to the applicant. An application supported with an affidavit is also filed separately by the complainant making the statement of no objection.

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 the minor prosecutrix and her sister were on their way to home, then the co-accused persons offered her lift in the car. The minor prosecutrix and her sister both were brought to a place, where this applicant was present with other co-accused persons. It is subsequent to that one co-accused took the minor prosecutrix to a lonely place, where he forcibly raped her.
7. Considered on the submissions and facts of the case and also perused the copy of the FIR and the statement of the prosecutrix under Section 164 of Cr.P.C., which is filed along with the application. Considering that there is specific statement of no objection for grant of bail by the complainant, although the complainant has appeared on 20.07.2020 before this virtual Court and he has made statement that he has objection in grant of bail. With respect to the statement made today, one application has also been filed which is supported with an affidavit, therefore, looking to this development, this Court is of the opinion that present is 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 allowed.

9. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram