

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2597 of 2020

- Minor Devnandan Kushwaha S/o Radheshyam Kushwaha, Aged About 16 Years, Through Radheshyam Kushwaha S/o- Gulab Kushwaha, (Natural Guardian and Father) R/o- Village- Hardibahra P.S.- Raghunathnagar, Dist.- Balrampur-Ramanujganj, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through- Police Station- Raghunathnagar, District- Balrampur-Ramanujganj, Chhattisgarh

----Non-applicant

For Applicant – Shri Sangeet Kumar Kushwaha, Advocate.
For Non-applicant/State – Shri Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08-06-2020

1. Learned counsel for the applicant submits that the default pointed out by the Registry has been cured. Therefore, the application be heard finally.
2. Learned counsel for the State also submits that the case diary is available and the application may be heard finally.
3. 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 29-09-2018 in connection with Crime No.80/2018 registered at Police Station - Raghunathnagar, District- Balrampur-Ramanujganj, Chhattisgarh for the offence under Section 376(2)(n), 376(n), 394/34 of the IPC.
4. It is submitted on behalf of the applicant that the applicant is a juvenile who has been falsely implicated in this case. No case is made out against him. The main accused in this case is Sonu Kushwaha who has been granted bail by the coordinate Bench and also one another co-accused Sadhunath has been granted bail by another coordinate Bench of this Court. Therefore, it is prayed that this applicant may also be granted bail.

5. Learned counsel for the State/non-applicant opposes the application submitting that there is evidence present regarding participation of the applicant in commission of crime. Therefore, he has no entitlement for grant of bail. It is also objected that as the applicant is a juvenile, therefore, his application under Section 439 of the Cr.P.C. is not maintainable.

6. Heard learned counsel for the parties and perused the documents.

7. The applicant is although juvenile, but his application has been filed before the Sessions Court under Section 439 of the Cr.P.C. which has been dismissed by the rejection order, therefore, for this reason this application is maintainable.

8. The case against the applicant is this, that he assisted the main accused Sonu Kushwaha in sexually exploiting the minor prosecutrix and also stealing her belongings which contained ATM card, which was used by the main accused and this applicant to withdraw amount from her account and total Rs. 1,10,000/- has been withdrawn.

9. Considering that the similarly placed co-accused person and also the main accused person have been granted bail by the coordinate Bench, therefore, for this reason I feel inclined to allow this application.

10. 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 natural guardian 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. His custody shall be given to his natural guardian.

11. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge