

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3831 of 2020

Mahesh Kashyap, S/o Amarulal Kashyap, Aged About 26 Years, R/o Ringni, P.S. Shivrinarayan, District- Janjgir-Champa (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through: Police Station Shivrinarayan, District- Janjgir-Champa (C.G.)

--- Respondent

For Applicant : Mr. Sumit Singh, Advocate.

For State/ Respondent : Mr. Devendra Pratap Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

14/08/2020

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. 80/2020, registered at Police Station- Shivrinarayan, District- Janjgir-Champa (C.G.) for the offence punishable under Section 376, 294, 506, 307, 342, 328, 323, 147, sub-section 149 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 20.03.2020 and has been falsely implicated in this case, in fact, the applicant and the prosecutrix both had love affair and that had continued for about three years. Because of

dispute that was occurred on 06.03.2020, the prosecutrix has lodged FIR, which is totally false and made up. The other co-accused persons, who are similarly placed, have been granted anticipatory bail by the Special Court (under the POCSO Act), Janjgir-Champa. Hence, it is prayed that this applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application submitting that the prosecutrix has made very categorical statement making allegations against the applicant regarding commission of offence of rape and also attempt to murder, therefore, no case is made out for grant of bail to this applicant. Hence, the application for grant of bail may be rejected.
4. Heard counsel for both the parties and perused the records.
5. As per case of the prosecution, it is alleged that on 31.12.2017, this applicant, by putting the minor prosecutrix under threat, committed offence of rape with her. This applicant then, continued sexual exploitation of the minor prosecutrix for about three years on pretext that he will marry her in future, even then, he did not marry her. It is alleged that on 06.03.2020, this applicant called the minor prosecutrix to his house, where, he and other co-accused persons abused her, threatened her, confined her, assaulted and injured her. It is also alleged that one of the co-accused person namely Sulochna, forcibly administered some poisonous substance to the prosecutrix, because of which, she became indisposed and had to take medical treatment. After getting discharged from medical centre,

the prosecutrix filed a written complaint on 13.03.2020. On the basis of which, FIR was lodged on 14.03.2020.

6. Considered on the submissions and the facts present in this case. There is no direct allegation against this applicant that he was the person, who administered the poisonous substance to the prosecutrix. The incident of rape as alleged, has taken about three years prior to the date of lodging written complaint, that the dispute cropped up on 06.03.2020, when this applicant and other co-accused persons got involved and even then, the prosecutrix took some more time in lodging the written complaint. Therefore, under these circumstances, I am of the view that it would be proper to release the applicant on regular bail during pendency of trial against him, hence, I feel inclined to grant bail to the applicant in this case.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. 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