

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3990 of 2020

- Umesh Markam S/o Harak Ram Aged About 19 Years Caste Gada, R/o Village Chhindaula, Tahsil and P.S. Gariyaband, District Gariyaband, Chhattisgarh(Not Mentioned In The Impugned Order Of The Learned Court Below)

---- Petitioner

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Gariyaband, District Gariyaband, Chhattisgarh

---- Respondent

For Applicant : Mr. A.D. Kuldeep, Advocate.

For State/respondent : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/06/2020

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.83/2020 registered at Police -Station-Gariyaband, District-Gariyaband(C.G.) for the offence punishable under Section 376(2) of IPC and Section 4, 6 of POCSO Act, 2012.

2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The applicant is in jail since 20.4.2020. No case is made out against the applicant. The prosecutrix is not a minor. The relationship of the applicant with her was based on consent, therefore, it is prayed that he may be enlarged on regular bail.
3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that on the date of incident the prosecutrix was of age 16 years and 8 months only and the applicant has knowingly exploited her sexually which has resulted in her pregnancy, however, the pregnancy has medically terminated, therefore, the applicant is not entitled for grant of regular bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to prosecution case, the applicant got acquainted with the prosecutrix and then he used to visit her house and have physical relation with her knowingly, that the prosecutrix is a minor and not capable to consent for such relationship. As the prosecutrix had some physical ailment because of sickle cell anaemia, therefore, she visited hospital and it was learnt in a medical examination that she is pregnant, therefore, the FIR has been lodged.
6. After considering the facts and circumstances of the case and also the submissions made on behalf of the applicant, I feel inclined to allow the bail application of this applicant.

7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a 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.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha