

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4608 of 2020

- Akash Prajapati S/o. Sumran Lal, Aged About 21 Years, Residing at Mother Teresa Ward Jagdalpur, P.S.- Bodhghat, District- Bastar, Chhattisgarh, District : Bastar (Jagdalpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Bodhghat, District- Bastar, Chhattisgarh, District : Bastar (Jagdalpur), Chhattisgarh

---- Non-applicant

MCRC No. 4706 of 2020

- Akash Prajapati S/o Sumran Lal, Aged About 21 Years, Residing at Mother Teresa Ward Jagdalpur P.S. Bodhghat District Bastar Chhattisgarh., District : Bastar (Jagdalpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Bodhghat, District Bastar Chhattisgarh., District : Bastar (Jagdalpur), Chhattisgarh

---- Non-applicant

For Applicant – Shri Pravin Kumar Tulsyan, Advocate.

For Non-applicant/State – Shri D.P. Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-08-2020

1. As both these bail applications are related to the same applicant, they are being decided by this common order.

2. Heard on these applications filed under Section 439 of the Cr.P.C. These are first bail applications before this Court filed by the applicant for grant of regular bail.

MCRC No.4608 of 2020 has been filed by the applicant as he has been arrested on 24-11-2019 in connection with Crime No.252/2017 registered at Police Station - Bodhghat, District Bastar, Chhattisgarh for the offence under Section 363, 366, 376 (3) of the IPC and under Section 6 of the Protection of Children from Sexual Offences Act, 2012.

MCRC No.4706 of 2020 has been filed by this applicant as he has been arrested on 13-01-2020 in connection with Crime No.261/2019 registered at Police Station - Bodhghat, District Bastar, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and under Section 6 of the Protection of Children from Sexual Offences Act, 2012.

3. Learned counsel for the applicant in both the cases submits that the applicant has been falsely implicated twice by the same complainant and the allegation made is also regarding the same prosecutrix. In the earlier offence registered against the applicant, i.e., Crime No.252/2017 of P.S. Bodhghat, District Bastar, the trial has commenced after completion of the investigation and the prosecutrix has given statement before the Court, in which she has stated that she had taken help of the applicant to get out of the clutches of her parents from whom she was aggrieved and she has made no other allegation. As regards, the second offence registered as Crime No. 261/2019, the allegation against the applicant is totally false, which has been confirmed by the prosecutrix herself in her statement given before the Magistrate under Section 164 of the Cr.P.C. Therefore, no case is made out against the applicant in both the cases. Therefore, it is prayed that he may be granted bail in both the cases.

4. Learned counsel for the State/non-applicant opposes the applications and submits that according to the statement given by the prosecutrix in both the cases, offence of abduction is clearly made out against the applicant. Therefore, he is not entitled for grant of bail.

5. Notice issued to the informant/complainant in MCRC No.4608/2020 has been returned served, but there is no appearance and representation on their behalf.

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

7. The case against the applicant in Crime No.252/2017 is this that, he abducted the minor prosecutrix and then by keeping her in his custody he exploited her sexually, regarding which he is being prosecuted. The case against the applicant in Crime No. 261/2019 is this, that the applicant abducted the minor prosecutrix again and then by keeping her in custody in places he has exploited her sexually which amounts to commission of offence of rape.

8. In Crime No.252/2017 the prosecutrix has been examined before the trial Court. The certified copy of her statement has been produced in MCRC No.4608/2020, according to which, she has been declared hostile witness by the prosecutor. In the statement given by the prosecutrix under Section 164 of the Cr.P.C. before the JMFC in Crime No.261/2019, it is found that her statement is contradictory to other statement given by her and it supports the submissions made by learned counsel for the applicant. Therefore, looking to these circumstances in both the cases, I feel inclined to allow both these applications.

9. Consequently, both these applications filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail are hereby allowed. It is directed that the applicant shall be released on bail on his furnishing in each of these cases 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge