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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6584 of 2020

- Tarak Dhruv S/o Pilsingh Dhruv, Aged About 23 Years, R/o Onva, Police Station Chhura, Gariyaband, District Gariyaband Chhattisgarh, District : Gariyabandh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through Police Station Chhura, District Gariyaband Chhattisgarh, District : Gariyabandh, Chhattisgarh

---- Non-applicant

For Applicant – Shri Manoj Paranjpe and Shri Anurag Singh, Advocates.
For Non-applicant/State – Shri D.P. Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-10-2020

1. 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 05-03-2020 in connection with Crime No.26/2020 registered at Police Station - Chhura, District Gariyaband, Chhattisgarh for the offence under Section 376 (2) (ढ़) of the IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The prosecutrix was not minor. The applicant intends to challenge the ground of her minority in trial. The relation of the applicant with the prosecutrix was consensual. The allegation that this relation took place on pretext of marriage is baseless, as it was during this relationship the prosecutrix herself got married to one Chandrahas Dhruv, but because of the disclosure of her pregnancy she was deserted by her husband. The disclosure of this incident had been made belatedly in the month of January, 2020 before the Child Welfare Committee and then the false FIR has been lodged against the applicant. Therefore, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor who was subjected to sexual exploitation by the applicant on pretext that he will marry her in future. There is categorical statement given by the prosecutrix under Section 161 of the Cr.P.C. to the police and under Section 164 of the Cr.P.C. before the Magistrate against the applicant. Therefore, the applicant is not entitled for grant of bail.
4. Heard learned counsel for the parties and perused the documents.
5. As per the prosecution case, it is alleged that the minor prosecutrix whenever used to visit the matrimonial home of her elder sister the applicant who happens to be brother-in-law of her elder sister, on pretext that he will marry used to forcefully rape her. This continued for some time until the prosecutrix became pregnant before she got married off to Chandrahas Dhruv. Subsequent to the disclosure of her pregnancy the matter was brought before the Child Welfare Committee and then the FIR was lodged.
6. After Considering on the entire facts of the case and the submission that has been made from both the sides, I am of this view that it is fit case where the applicant should be granted bail.
7. 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 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.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge