

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7257 of 2020

- Narendra Samrath S/o Phool Singh Samrath, Aged About 23 Years, By Caste Gond, R/o Village Hatma, Post Khallari, Thana and Tahsil Vishrampuri, Distt. Kondagaon Chhattisgarh., District : Kondagaon, Chhattisgarh

---- Applicant

Versus

- The State of Chhattisgarh, Through Police Station Narharpur, District - Uttar Bastar Kanker Chhattisgarh, District : Kanker, Chhattisgarh

---- Non-applicant

For Applicant – Shri Parag Kotecha, Advocate.

For Non-applicant/State – Shri Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-12-2020

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 12-09-2020 in connection with Crime No.130/2020 registered at Police Station - Narharpur, District - Uttar Bastar Kanker, Chhattisgarh for the offence under Section 376 of the IPC and Section 4, 6 of Protection of Children from Sexual Offences Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. According to the statement given by the prosecutrix herself in the investigation, there had been friendship and affair between her and the applicant. On the date of incident the applicant and the prosecutrix were seen by the mother of the prosecutrix in compromising position, because of which the FIR has been lodged and that too has been lodged after delay of three days. The prosecutrix is not minor and the applicant intends to challenge the ground of her minority in the trial. The applicant is in jail since 12-09-2020. Therefore, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that according to the proof of the date of birth in the school

register, the age of the prosecutrix was only 16 years and 01 month at the time of incident, therefore, any consent or willingness on her part is of no consequence. Commission of offence is clearly made out against the applicant. Therefore, the application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.

5. As per the prosecution case, it is alleged that this applicant on pretext of marrying the minor prosecutrix sought submission of the prosecutrix for physical relation and thus committed offence of rape.

6. Considered on the submissions and facts of the case. After looking to the statement that has been made by the prosecutrix in the investigation and other circumstances present, I feel inclined to allow this application.

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