

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7517 of 2020**

- Mukesh Markam, S/o Sonau Ram Markam, Aged About 21 Years R/o Village Honvandi, P. S. Vishrampuri, District-Kondagaon, Chhattisgarh.

---- Petitioner**Versus**

- State of Chhattisgarh Through Police-Station-Vishrampuri, District-Kondagaon Chhattisgarh.

---- Respondent

For Applicant	: Mr. Shobhit Koshta, Advocate.
For State/respondent	: Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****03/12/2020**

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.55/2020 registered at Police-Station-Vishrampuri, District-Kondagaon(C.G.) for the offence punishable under Sections 376(2)(a) of IPC and Section 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. False FIR has been lodged against the applicant. The prosecutrix herself has named one another person Sunil Markam as to show her relationship. The prosecutrix has also lodged one FIR against Sunil Markam, which is registered as Crime No.56/2020 in the same police-station, in which,

she has made statement, that she had love affair with that accused Sunil Markam. The FIR lodged in this case is delayed for about 9 months, therefore, the whole case against the applicant is concocted. He is in jail since 20.8.2020, hence, the applicant 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 the prosecutrix has given birth to a female child on 14.9.2020 and her statement that her physical relation took place with this applicant in December, 2019, correlate the incident. The prosecutrix is minor of age below 16 years, therefore, any consent by her is of no consequence, the application be rejected.
4. The presecutrix is virtually present before this Court through the 'Help Desk' of DLSA, Kondagaon. She has stated that she has no objection in grant of bail to this applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that this applicant met with the minor prosecutrix in December, 2019 when he raped her. The applicant threatened the prosecutrix to not to disclose about the incident to anybody and then he continued with this act on some more occasions, then the prosecutrix became pregnant. Her pregnancy was discovered by her parents and then the FIR has been lodged on 20.8.2020.
7. Considered on the submissions and the facts of the case, there are peculiarities in the statement given by the prosecutrix making allegation that this applicant as well as one another person namely

Sunil Markam, against whom there is a different case registered by the police on FIR lodged by the prosecutrix side. Looking to these circumstances and also the statement of no objection made by the prosecutrix herself, I feel inclined to allow the bail application of this applicant.

8. 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