

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8079 of 2019**

- Sayyed Azhar Ali, age 24 years, S/o Shri Sayyed Riyaz Ali, R/o Sanjay Nagar, Tikrapara, Raipur (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh Through : The Station House Officer, Police Station Din Dayal Upadhyay, District Raipur (C.G.)

---- Respondent

For Applicant : Shri Sharad Mishra, Advocate.
For Respondent. : Shri B.L. Sahu, P.L. for the State

Hon'ble Smt Justice Rajani Dubey**Order on Board****28/01/2020**

1. The applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is in custody since 20.06.2019 in connection with Crime No.219/2019 registered at Police Station : Din Dayal Upadhyay, District Raipur (C.G.) for the offence punishable under Section 376 IPC and Sections 4 & 6 of Protection of Children from Sexual Offences Act (for short 'the Act').
2. The allegation against the present applicant is that he has been sexually assaulting the prosecutrix since 2016 on the pretext of marriage and when the prosecutrix forced the applicant to marry her, he refused to marry. Based on this, the offence has been registered. The applicant has been taken into custody since 20.06.2019.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that the prosecutrix is major aged about 22 years and she was a consenting party to the act of the applicant. He also submits that the prosecutrix, in her 164 CrPC statement, has not supported the prosecution case and turned hostile. That apart, parents of the prosecutrix have also not supported the case of the prosecution. He also submits that the applicant is in custody since 20.06.2019, the charge sheet has been filed and there is no likelihood of his case being decided in near future. Therefore, the applicant may be granted bail.
4. On the other hand, State counsel opposes the bail application. Learned State counsel submits that at the time of incident i.e. on 15.02.2016, the age of the prosecutrix was 15 year and 8 months and thus minor for all practical purposes.
5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the totality of the facts and circumstances of the case, in particular 164 CrPC statement of the prosecutrix and further considering the fact that the applicant is in custody since 20.06.2019 and the final disposal of his case may take some time, without further commenting on merits, this Court is of the opinion that it is a fit case to release the applicant on bail.
7. Accordingly, the application is allowed and the accused/applicant is directed to be released on bail on his

furnishing a personal bond of Rs.25,000/- with one solvent surety for the like sum to the satisfaction of the concerned trial Court for his appearance before it as and when directed.

Certified copy as per rule.

Sd/-

(Rajani Dubey)
Judge

Pekde