

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 370 of 2021

- Hardeep Sing @ Goge S/o Hem Sing, Aged About 33 Years, R/o Zone 03, Quarter No. 12/A, Street No. 03, Khursipar, Police Station Khursipar, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through: Station House Officer, Police of Police Station Khursipar, District - Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicant

For Applicant –Shri Hemant Kumar Agrawal, Advocate.

For State/Non-applicant – Shri B.P. Banjare, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06-04-2021

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 07-11-2020 in connection with Crime No.528/2020 registered at Police Station – Khursipar, District - Durg, Chhattisgarh for the offence under Section 376, 506-B 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. The applicant is in jail since 07-11-2020. The prosecutrix was not minor and her relation with the applicant was consensual. The prosecutrix is habitual in lodging the FIR and falsely implicating the persons. On her FIR lodged a criminal case, Special Case No.50/2016 has been tried against one Rajat Manjhi for commission of offences under Section 363, 366 and 376 of the IPC and Section 4 of POCSO Act. Accused Rajat Manjhi in that case has been acquitted in the judgment because of the hostility of the prosecutrix. The prosecutrix has then lodged another FIR against the same accused Rajat Manjhi and one Rambabu which has been registered as Crime No.589/2017 in P.S. Chhawani, District Durg alleging commission of

offence under Section 363, 366, 376, 368 of the IPC and Section 5/6 of the POCSO Act regarding commission of these offences on another date. The charge sheet has been filed and the trial is pending in the Court. The present FIR by the prosecutrix is third one dated 05-08-2020. The FIR is clearly delayed as the date of first incident mentioned as 19-07-2018, hence, the case is concocted and false. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that looking to the statement of the prosecutrix under Section 161 and 164 of the Cr.P.C., this applicant is not entitled for grant of bail.

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

5. According to the prosecution case, it is alleged that this applicant on pretext of marrying the minor prosecutrix started having physical relation with her from 19-07-2018 and then continued it upto 29-05-2020, during which the prosecutrix was subjected to physical relation on numerous occasions and she also became pregnant. Finally, the applicant refused to marry the prosecutrix, because of which the present FIR has been lodged.

6. Considered on the submissions and the facts present in this case and also taking into consideration the diary statement of the prosecutrix, 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