

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 305 of 2021**

Mahesh Mahanand S/o. Late Anand Mahanand Aged About 20 Years R/o. Vinobabhave Nagar, Near Pani Tank, Police Station Civil Line, District Raipur (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through - Station House Officer, Police Station Civil Line, District Raipur (Chhattisgarh).

---- Respondent

For the Applicant : Shri Rekhraj Baghel, Advocate.
For the Respondent/State : Shri Jitendra Shukla, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.03.2021**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.50 of 2020, registered at Police Station – Civil Line, District – Raipur, Chhattisgarh for the offence punishable under Sections 376(2)(n) and 366 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 22.2.2020 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows that she was willing and consenting party. Neither the prosecutrix nor her parents have

made any complaint. The prosecutrix was not minor on the date of incident. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix was minor on the date of incident and her consent and willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

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

5. The case of the prosecution case is that this applicant and the prosecutrix both were having an affair and also had physical relation. However, the prosecutrix was minor of age below 18 years and thus, she was incapable of giving any consent. The prosecutrix became pregnant as a result of her relation with the applicant. The applicant then provided her some medicine and on taking the same, her pregnancy got aborted, but the bleeding could not be stopped, therefore, she visited Dr. Bhimrao Ambedkar Memorial Hospital, Raipur and it was the first time she disclosed about the incident to the doctor subsequent to which, the information was given to the police. Hence, this case.

6. Considered the submissions and the documents present in this case. On perusal of the statement of the prosecutrix under Section 164 of the Cr.P.C., and also looking to the pendency of the trial before the Court, I feel inclined to grant regular bail to the applicant.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that 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 trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge