

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1288 of 2021

- Asharam S/o Anand Ram, Aged About 30 Years, Caste -Samnani, R/o Village- Savitripur, Police Station- Sankra, Tahsil- Pithoura, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through: Police Station- Basna, District Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Non-applicant

For Applicant – Shri Kishore Narayan, Advocate.

For State/Non-applicant – Shri Anil Tripathi, Panel Lawyer.

Shri Shivendu Pandya, Advocate for the complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-06-2021

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 30-09-2020 in connection with Crime No.432/2020 registered at Police Station – Basna, District Mahasamund, Chhattisgarh for the offence under Section 363, 366, 376(2)(ॢ), 506, 323 of the IPC and Section 6 of Children from Sexual Offences Act, 2012.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The statement of the prosecutrix under Section 164 of the Cr.P.C. although mentions that the applicant was forcing upon her, but there is no mention that the prosecutrix was raped. In fact, the applicant and the prosecutrix both had affair and because of dispute the false FIR was lodged. Now, the dispute has been settled and the prosecutrix is making no objection before this Court. Further, it is submitted that the prosecutrix has been examined in the trial and she has not supported the prosecution case. Therefore, under these circumstances, the applicant is entitled for bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the statement of the prosecutrix under Section 164 of the Cr.P.C. clearly mentions that the applicant forced himself upon the prosecutrix

when the incident occurred, therefore, the applicant is not entitled for grant of bail.

4. Shri Shivendu Pandya, counsel appearing for the prosecutrix and the complainant submits that the complainant and the prosecutrix have no objection in grant of bail to the applicant.

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

6. According to the prosecution case, on the date of incident this applicant called the prosecutrix in his room and then bolted the door. Subsequent to which, the applicant forced himself upon the prosecutrix and had forcible physical relation. This physical relation then continued on numerous occasions. Hence, this case.

7. Considered on the submissions and the facts present in the case and also taking into consideration the statement of no objection from the complainant side, I feel inclined to allow this application.

8. 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge