

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1313 of 2021

- Hemlal Yadav S/o Mansaay Yadav, Aged About 32 Years, R/o Village Labhrakala, Police Station Khallari, Tehsil and District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through - Police Station Khallari Tehsil and District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

----Non-applicant

For Applicant – Shri R.K. Rathi, Advocate.

For Non-applicant/State – Shri Amit Kumar Verma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

19-07-2021

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 22-07-2020 in connection with Crime No.143/2020 registered at P.S. - Khallari, District Mahasamund, Chhattisgarh for the offence under Section 376, 506, 450 of the IPC and Section 4, 6 of the POCSO Act and Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 22-07-2020. The prosecutrix was not minor on the date of incident. Further, it was a case of affair between the applicant and the prosecutrix. The FIR was lodged only for the reason that the applicant has refused to marry the prosecutrix after she became pregnant. The FIR is also delayed by almost six months. Hence, under these circumstances the applicant is entitled for grant of bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor being of age below 18 years and

further, the facts show that it was only a single incident of rape, therefore, there cannot be affair between the applicant and the prosecutrix. Hence, the application may be rejected.

4. The minor prosecutrix is virtually present through Help Desk of DLSA Mahasamund. She has 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 when the prosecutrix was alone in the house along with her grand-mother the applicant forced his entry and then raped her. The prosecutrix is a member of Scheduled Tribe. Later on, the prosecutrix became pregnant and after about six months she disclosed about this incident. Subsequent to which, the FIR has been lodged.

7. Considered on the submissions. The delay in FIR in this case needs explanation and further, looking to the statement of no objection made by the prosecutrix herself, 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