

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1403 of 2021**

Bhartendra @ Bhanu Yadav S/o Mahesh Yadav Aged About 19 Years
Village Khairagarh, Turkaripara Ward No. 8, Tehsil Khairagarh, District
Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Officer In Charge Of Police Station
Chhuikhadan, District Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant : Shri Sanjay Agrawal, Advocate.
For the Respondent/State : Shri Gurudev I. Sharan, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.04.2021**

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.5 of 2021, registered at Police Station – Chhuikhadan, District – Rajnandgaon, Chhattisgarh for the offence punishable under Section 376 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 2.1.2021 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. was very clear that she had given statement against the applicant under compulsion from her

parents and family members. Further, the prosecutrix has been examined before the trial Court; she turned hostile and has not supported the case of the prosecution. 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 and secondly, there are other witnesses to be examined in the trial. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Varsha Chouhan is present before this virtual Court through the Help-Desk of the High Court. She made a statement that she has no objection in grant of bail to the applicant.

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

6. As per the prosecution case, it is alleged that the applicant has raped the minor prosecutrix of age below 16 years regarding which, the FIR has been lodged.

7. Considered the submissions and the documents present in this case. Perused the copy of the deposition of the prosecutrix according to which, she is a hostile witness and also perused the statement of the prosecutrix under Section 164 of the Cr.P.C. which confirms the submissions made by the applicant's counsel. Hence, under these circumstances, I feel inclined to grant regular bail to the applicant.

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

9. 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