

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1755 of 2021**

Aklesh @ Akhilesh, S/o. Chamru Ram, aged about 19 years, R/o. Daura Uparpara Out Post Daura, Police Station -Pasta, District Balrampur Ramanujganj Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through - Out Post Daura, Police Station -Pasta, District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For Applicant : Mr. Pushkar Sinha, Advocate

For Respondent/State : Ms. Hamida Siddiqui, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**11/08/2021**

1. This is the third 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.03/2020, registered at Police Station – Pasta, District – Balrampur – Ramanujganj (C.G.) for the offence punishable under Section 354 (A), (D), 376 of the Indian Penal Code, and Section 4, 12 of Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (v-A) of S.C. & S.T. (Prevention of Atrocities) Act. The first bail application M.Cr.C. No. 1236 of 2020 of the applicant was dismissed as withdrawn vide order dated 02.06.2020 and the second bail application M.Cr.C. No. 4462 of 2020 was dismissed on merits.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 22.01.2020. Charge-sheet in this case has been filed. The FIR that was lodged against the applicant on 19.01.2019 for offence under Section 354 of the I.P.C. only. After about more than one month, the statement of the prosecutrix was recorded under Section 161 of Cr.P.C., in which she all of a sudden made allegation of rape against the applicant. There is no explanation of delayed disclosure of this allegation by the prosecutrix and the complainant. The statement of the prosecutrix under Section 161 of Cr.P.C. also shows that she and the applicant were acquainted with each other and were having conversation and meeting, which was interrupted by the parents of the prosecutrix. The allegation of rape against the applicant is totally false and made up for the reason that the applicant has also lodged one FIR against the brother of the prosecutrix for commission of offence under Section 294, 506, 323 of the I.P.C. Therefore, there is a case of false implication. Hence, it is prayed that the applicant may be released 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 there is her clear statement under Section 161 of Cr.P.C. against the applicant. Therefore, the application be rejected.
4. The complainant and the prosecutrix both had virtually appeared before this Court on 19.07.2021 through the Help Desk of D.L.S.A. Balrampur and they have made statement of no objection in grant of bail to the applicant

5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, this applicant used to stalk, harass and outrage the modesty of the minor victim on numerous occasions since October, 2019 until the date, the FIR was lodged. Subsequent to that the prosecutrix has in her statement under Section 161 of Cr.P.C. revealed about the incident of rape, which was committed by this applicant.
7. Considered on the submissions. Looking to the gradual development in the evidence and that the prosecutrix and her father - the complainant have no objection in grant of bail to the applicant, hence for this reason, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge