

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.1913 of 2021

- Mahesh @ Chhotu S/o Shri Shivbalak Aged About 19 Years Cast- Gond, R/o Village Darhora Aashanpara, Police Station Chandraura, Tahsil Pratappur, District Surajpur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Chandora, Tahsil Pratappur, District Surajpur Chhattisgarh

---- Non-applicant

For Applicant : Mr. Shashi Bhushan Tiwari, Advocate.

For Non-applicant/State : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-03-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 22.07.2020, in connection with Crime No.56/2020 registered at Police Station-- Chandora, Tahsil- Pratappur, District- Surajpur, C.G. for offence punishable under Section 363, 366(A), 368 and 376 of I.P.C. and Sections 04, 05, 06 and 17 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant is innocent and has been falsely implicated in this case. The prosecutrix in this case was not minor and further, she had been a consenting party. Her statement under Section 164 of Cr.P.C. reveals that she had by herself gone to the house of the applicant and resided with him. Although there is allegation of rape but looking to the repeated conduct of the prosecutrix of submitting to the applicant, it is clearly a case of consent. The applicant is in jail since 22.07.2020. A number of

witnesses have been examined but the prosecutrix and her father both are not examined yet, therefore, the trial is getting delayed. Hence, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the statement of the prosecutrix shows that there is direct allegation of rape against this applicant and further, she was minor on the date of incident, therefore, no case is made out for grant of bail to the applicant.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix on pretext of marrying her and then he had forceful sexual relation with her knowing well that she was not capable of giving consent being a minor. Hence, this case.
6. Considered on the submissions. Taking into consideration the facts and circumstances of this case and that the prosecutrix and the complainant both are not appearing in the Court for their statement and the trial is getting delayed, I feel inclined to allow this application.
7. Consequently, this application filed by the applicants 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 two local surety each in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.
8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge