

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1839 of 2021

Vinod Yadav, S/o Rama Yadav, Aged About 21 Years, R/o- Village-
Rajiv Gandhi Nagar, Avanti Vihar, Raipur, Police Station- Telibandha,
District- Raipur (C.G.)

--- Applicant

Versus

State of Chhattisgarh, through the Station House Officer, Police
Station- Telibandha, District- Raipur (C.G.)

--- Respondent

For Applicant : Mrs. Mandwi Bhardwaj, Advocate.

For State/ Respondent : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16/03/2021

1. Heard on admission.
2. Admit.
3. Learned State counsel submits that the case diary is available.
4. Both the counsel have agreed to make their submissions.
5. 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. 307/2018, registered at Police Station- Telibandha, District- Raipur (C.G.) for the offence punishable under Section 376 of IPC and Section 6 of the Protection of Children from Sexual

Offences Act, 2012.

6. Learned counsel for the applicant submits that the applicant is in jail since 25.01.2021 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident and further, she was a consenting party throughout, which is evident from her statement itself. No case is made out against this applicant, hence, it is prayed that this applicant may be enlarged on bail.
7. On the other hand, learned counsel for the State opposes the bail application submitting that the prosecutrix was minor of age below 18 years on the date of incident, therefore, any willingness or consent on her part, is immaterial. There is statement of the prosecutrix under Section 164 of the Cr.P.C. regarding commission of offence of rape against the applicant, hence, the application for grant of bail may be rejected.
8. Heard counsel for both the parties and perused the records.
9. The case of the prosecution is this, that the applicant and the minor prosecutrix both were acquainted to each other. On 02.01.2018, the prosecutrix went to the house of the applicant on his calling where, he forcibly raped her. The applicant assured the applicant about marrying her and he continued such forcible relation with the prosecutrix, because of which, she became pregnant. The applicant also made attempts to abort the pregnancy of the prosecutrix, subsequent to which, he deserted her, regarding which, FIR has been lodged on 18.06.2018

against the applicant.

10. Considered on the submissions and the facts present in this case. The date of birth of the prosecutrix is 24.01.2001. The statement of the prosecutrix shows about continuity of the relation with the applicant, which the prosecutrix alleges to be forcible. However, the reason for lodging FIR appears to be desertion made by the applicant. The applicant is in jail since 25.01.2021. For these reasons, I feel inclined to allow the bail application of this applicant.
11. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
12. 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 trial Court, for his appearance as and when directed.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge