

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2172 of 2021**

Shivnarayan Yadav, S/o. Shri Lekhram Yadav, aged about 19 years, R/o. Village Dighari (Wrongly mentioned as Dihari), Police Station Mandir Hasaud, District Raipur Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station Mandir Hasaud, District Raipur Chhattisgarh.

---- Respondent

For Applicant : Mr. C.R. Sahu, Advocate

For Respondent/State : Ms. Akshara Amit, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/09/2021**

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.441/2019, registered at Police Station – Mandir Hasaud, District – Raipur (C.G.) for the offence punishable under Section 376 (2) (अ) (द) of the Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act, 2012 and Section 3 (1) (w) (ii) and 3 (2) (v) of the S.C. & S.T. (Prevention of Atrocity) Act.
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 23.09.2019. The statement of the prosecutrix under Section 164 of Cr.P.C. reflects that she was willing and consenting party. The ground of minority of the prosecutrix shall be challenged by the applicant in trial. 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 age of the prosecutrix was 16 years and 3 months on the date of incident, therefore, any willingness and consent on her part is immaterial. Hence, this application be rejected.
4. The prosecutrix is physically present before this Court on notice. She has 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 on the pretext of marrying the minor prosecutrix, who is the member of scheduled caste, has exploited her sexually on numerous occasions knowing well that she was not minor and not capable to give any consent.
7. Considered on the submissions. Looking to the statement of the prosecutrix under Section 164 of Cr.P.C. and also that she herself has 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

Balram