

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2148 of 2021**

Harish Rajput, S/o. Ghanshyam Rajput, aged about 18 years, at Village Hirabatar, P.S. Chura, District Gariyaband, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : P.S. Chura, District Gariyaband, Chhattisgarh.

---- Respondent

For Applicant : Mr. Lukesh Kumar Mishra, Advocate

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**09/08/2021**

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.11/2021, registered at Police Station – Chura, District – Gariaband (C.G.) for the offence punishable under Section 354, 376 of the Indian Penal Code and Section 4 & 8 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. On the basis of the FIR lodged, initially the offence under Section 354 of I.P.C. read with Section 8 of Protection of Children from Sexual Offences Act was registered. The applicant was arrested on 21.01.2021, subsequent to that, the prosecutrix made statement on 22.01.2021, before the Child Welfare Committee that the applicant on the pretext of marriage had sexual intercourse with her and she has given similar statement later

on under Section 164 of Cr.P.C. Therefore, it shows gradual development in the statement of the prosecutrix and the case against the applicant is false. Reliance has been placed on the judgment of High Court of Delhi in case of **Dharmender Singh @ Saheb Vs. The State (Govt. of NCT, Delhi), in Bail Appl. No. 1559 of 2020, decided on 22nd of September, 2020**, in which in the similar case, the Delhi High Court has granted bail to the applicant. Therefore, 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 there is clear statement of the prosecutrix against the applicant regarding commission of offence of rape forcibly with her and further the prosecutrix is minor, therefore, no case is made out for grant of bail.
4. Notice issued to the complainant was returned served for 26.07.2021, but on that date there was no appearance and no representation from the complainant side.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, it is alleged that the applicant took the minor prosecutrix to his house, where he molested her regarding which FIR was lodged, in which the offence under Section 354 of I.P.C. and Section 8 of Protection of Children from Sexual Offences Act was registered. On the very next day, the prosecutrix made statement before the Child Welfare Committee and the Court under Section 164 of Cr.P.C. that she was raped by the applicant. Hence, this case.

7. Considered on the submissions. There is gradual development in the statement of the prosecutrix, hence 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