

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2184 of 2021

- Rajaram Sahu S/o Ashi Kumar Sahu, Aged About 18 Years, R/o Village Rampur P.S. Kosir, Tahsil Sarangarh, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through District Magistrate, Raigarh, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

----Non-applicant

For Applicant – Mr. Pankaj Singh, Advocate.

For Non-applicant/State – Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-08-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 21-07-2020 in connection with Crime No.118/2020 registered at P.S. - Thana Kosir, Sarangarh, District Raigarh, Chhattisgarh for the offence under Section 376 of the IPC and Section 4, 6 of POCSO Act.

2. It is submitted on behalf of the applicant, that this is second bail application filed by the applicant before this Court. His first bail application, MCRC No.7500/2020 was dismissed as withdrawn on 09-12-2020. It is submitted that the applicant has been falsely implicated. The prosecutrix has been now examined in the trial and there is her admission that she and the applicant both were having love affair. The FIR lodged and her statement under Section 161 of the Cr.P.C. also speaks of love affair, therefore, the relationship of the prosecutrix with the applicant was consensual. The prosecutrix had not been minor on the date of incident. The medical report also does not suggest of any forceful physical relation with the prosecutrix. Hence, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the statement of the prosecutrix under Section 164 of the Cr.P.C. mentions that the applicant made forceful physical relation with the prosecutrix without her consent and willingness. Further, she is minor. Therefore, no case is made out for grant of bail.
4. The prosecutrix had virtually appeared before this Court on 26-07-2021 and objected to grant of bail to the applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. The FIR has been lodged by the prosecutrix stating that she and the applicant were having affair since about more than one year and the applicant on pretext of marriage exploited her sexually on number of occasions. On 15th July, 2020 the applicant had come to visit the minor prosecutrix in her house, when her father discovered it, the applicant fled from the spot. Subsequent to which, the FIR has been lodged.
7. Considered on the submissions and the facts present in the case. Looking to the admission of the prosecutrix regarding her affair with the applicant and other circumstances, I feel inclined to allow this application.
8. Consequently, this application filed by the applicant 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 one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge