

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2564 of 2021

- Ajay Kumar Son of Tota Ram, Aged About 28 Years, R/o Village Karsu, Chowki Latori, Police Station Jainagar, Tahsil and District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through: The Station House Officer, Police Station AJAK, Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

----Non-applicant

For Applicant – Shri Goutam Khetrapal and Shri Vijay Kumar Sahu, Advocates.
For Non-applicant/State – Smt. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-08-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 27-10-2020 in connection with Crime No.24/2020 registered at P.S. - AJAK, Surajpur, Chhattisgarh for the offence under Section 323, 376 of the IPC and Section 4 and 6 of Protection of Children from Sexual Offences Act and Section 3 (2-5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is submitted on behalf of the applicant, the applicant has been falsely implicated. He is in jail since 27-10-2020. The statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. clearly shows that the relationship of the applicant with the prosecutrix has continued for more than 1½ years before the FIR was lodged on 02-02-2020. Therefore, the relationship of the applicant with the prosecutrix was consensual. The applicant is an employee of SECL. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that firstly, the prosecutrix was minor, therefore, her consent or

willingness is immaterial. Secondly, the applicant had got the submission of the prosecutrix on giving false promise to marry her, whereas he was already married. The FIR has been lodged after the fact of the marriage of the applicant was disclosed to the prosecutrix. Therefore, there is no case present for grant of bail.

4. Learned counsel for the applicants submits in rebuttal that the prosecutrix had knowledge that the applicant was married, even then she has submitted for physical relation, which shows that she had no objection regarding the marriage of the applicant. Hence, the applicant is entitled for grant of bail.

5. The prosecutrix had virtually appeared before this Court on 30-07-2021 on notice and strongly objected to grant of bail to the applicant.

6. Heard learned counsel for the parties and perused the case diary.

7. As per the prosecution case, this applicant was on talking terms with the minor prosecutrix, who proposed to marry her, which was refused by the prosecutrix. Subsequent to that, the applicant on pretext of some urgent work took the minor prosecutrix to his house and then on pretext of marrying her he forcefully raped her. Subsequent to that, the applicant continued exploiting the minor prosecutrix. Later on, the prosecutrix came to know that the applicant has already married and is having children. The applicant gave her assurance that he will divorce his wife and marry her. The prosecutrix then called a meeting of village elders, in which the applicant clearly refused to marry her and started beating her in presence of the elders. Subsequent to that, the FIR has been lodged.

8. Considered on the submissions and the facts of the case and also perused certified copy of the deposition of the prosecutrix. The prosecutrix has been examined in the trial and she is not a hostile witness. Therefore, I am of

this view that this is not a fit case for grant of bail.

9. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge