

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2529 of 2021**

Sonu @ Panchram Sahu S/o Shri Shiv Kumar Sahu Aged About 29 Years
R/o Chigrajpura Surya Chowk Near Pani Tanki Ps Sarkanda Tahsil And
District Bilaspur Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through SHO Sarkanda District Bilaspur
Chhattisgarh.

---- Respondent

For the Applicant : Shri Dheerendra Pandey, Advocate.
For the Respondent/State : Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****11.08.2021**

Heard.

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.977 of 2020, registered at Police Station – Sarkanda, District – Bilaspur, Chhattisgarh for the offence punishable under Section 376, and 376(d), 34 of the Indian Penal Code, Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 4, 6 & 8 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 21.10.2020 and has been falsely implicated in this case by lodging of false FIR because of previous enmity. The co-accused persons, namely,

Virendra Singh Rajput and Devanand Kenwat have been granted bail by this Court in M.Cr.C. No. 220 of 2021, vide order dated 23.02.2021 and the applicant is also similarly placed. No offence has been committed by the applicant. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows the consensual physical relation of the applicant with the prosecutrix. The prosecutrix was not minor on the date of incident. Hence, it is prayed that the applicant be enlarged 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 this applicant is the main accused in this case who had allured the minor prosecutrix and exploited sexually, subsequent to that, he himself called the co-accused persons who came and gang-raped the minor prosecutrix, therefore, the nature of allegation against this applicant is very serious. Hence, no case is made out for grant of bail to the applicant.

4. Notice issued to the complainant for the fixed date of 30.7.2021 has been returned served but there is no appearance or representation.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, this applicant allured the minor prosecutrix with a false promise to marry her and then he exploited her sexually on some occasions. Later on, on the date of incident, i.e. on 27.7.2020, the minor prosecutrix visited this applicant again and both of them had physical relation when the co-accused persons came on the spot

and they took the minor prosecutrix with them to another place and gang-raped her. She was also threatened by the co-accused persons that they have in their possession her video-recording and they shall defame her in case, she does not submit to their wishes. Hence, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. The case-diary has been called for perusal. The FIR has been lodged on 20.10.2020 regarding the offence committed between 05.04.2020 to 27.07.2020. The written complaint was received by the police on 20.10.2020 in which, there was allegation only against the present applicant that he on pretext of marrying her has sexually exploited her. Nothing was stated against the co-accused persons in that complaint. The statement of the prosecutrix was recorded on 5.12.2020 after about more than one month in which she alleged gang-rape against the co-accused persons and similar is her statement under Section 164 of the Cr.P.C.

8. Looking to the variation in the statements that has been made by the prosecutrix in written complaint given by her and her subsequent statements, it appears that the applicant has a defence in this case and also for the reason that the co-accused persons have been granted bail by this Court, I feel inclined to grant regular bail to the applicant.

9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

10. 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi