

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2688 of 2021

- Dasharath @ Deni Yadav S/o Subhash Yadav, Aged About 19 Years, R/o Maharajganj, Police Chouki Ganeshmod, Thana Balrampur, District - Balrampur Ramanujanj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through, Police Station Balrampur, District - Balrampur Ramanujanj Chhattisgarh, District : Balrampur, Chhattisgarh

----Non-applicant

For Applicant – Shri A.K. Yadav, Advocate.

For Non-applicant/State – Shri Sameer Oraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-07-2021

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 26-08-2020 in connection with Crime No.141/2019 registered at P.S. - Balrampur, District - Balrampur Ramanujanj, Chhattisgarh for the offence under Section 363, 366, 375 (2)(n), 506 of the IPC and Section 5, 6, 9(I) of POCSO Act and Section 3(1-12), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 26-08-2020. The statement of the prosecutrix under Section 164 of the Cr.P.C. reveals about her affair and consensual relation with the applicant. The prosecutrix had willingly left and resided in various places until she was recovered by the police, therefore, there is no case present against the applicant. Hence, it is prayed that the applicant be granted bail.

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

consent is immaterial. Further, her statement under Section 161 of the Cr.P.C. is clear and categorical against the applicant. Hence, the application may be rejected.

4. The prosecutrix is virtually present through Help Desk of DLSA Balrampur. She has objection in grant of bail to the applicant.

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

6. According to the prosecution case, the applicant and the prosecutrix had an affair. They were having physical relation. On 22-08-2020 the applicant abducted the minor prosecutrix, took her to different places and had physical relation with her knowing well that this amounts to commission of offence of rape.

7. Considered on the submissions. After considering the statement of the prosecutrix under Section 164 of the Cr.P.C. 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