

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2762 of 2021

- Ritesh Jhadi S/o Narayan Jhadi, Aged About 25 Years, R/o Rautpara, Bijapur, Police Station Bijapur, District Bijapur, (C.G.), District : Bijapur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Toynar (wrongly mentioned as Bijapur), District - Bijapur (C.G.), District : Bijapur, Chhattisgarh

---- Non-applicant

For Applicant – Shri T.K. Jha, Advocate.

For State/Non-applicant – Smt. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-06-2021

Heard on the default.

It is submitted by the counsel for the applicant that due to non-supply of the address of the complainant/victim by the State counsel, the notice could not have been issued. However, the prosecutrix is connected through TLSA Bijapur and she wants to make statement.

The prosecutrix is virtually present before this Court through TLSA Bijapur, District Dantewada represented by counsel Shri Kalim Pasha Sheikh who has identified the prosecutrix. The prosecutrix makes statement that she has no objection in grant of bail to the applicant.

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 24-02-2021 in connection with Crime No.04/2021 registered at Police Station – Toynar (wrongly mentioned Bijapur), District - Bijapur, Chhattisgarh for the offence under Section 376 (2) (ढ) of the IPC and Section 5, 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by learned counsel for the applicant, that this applicant is innocent who has been falsely implicated in this case. The prosecutrix had

appeared before the Sessions Court to make statement of no objection, but the same was not considered. Further development that has taken place is this, that the prosecutrix has been examined in the Court and she has clearly not made a single statement against this applicant. Therefore, it is prayed that the application be allowed and the applicant be enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor on the date of incident and further, there is diary statement against the applicant and apart from that, there are other witnesses to be examined who may establish prosecution case. Therefore, the application may be rejected.

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

5. According to the prosecution case, this applicant on pretext of marriage had forceful physical relation with the minor prosecutrix on number of occasion, because of which the prosecutrix became pregnant and she gave birth to a child. Hence, this case.

6. Considered on the submissions. After perusing copy of the deposition of the prosecutrix in this case, it is found that she has not supported the prosecution case against this applicant, hence, looking to this development, I feel inclined to allow this application.

7. 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge