

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2699 of 2021

- Nikhil Gurung S/o Shri Prem Gurung, Aged About 21 Years, Resident of Ward No. 28, Banspara, Near Goura Chowk, Durg, Police Station Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh (detail has not mentioned in the rejection order of the learned court below).

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh

----Non-applicant

For Applicant – Shri Om P. Sahu, Advocate.

For Non-applicant/State – Smt. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

01-07-2021

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 07-09-2020 in connection with Crime No.607/2020 registered at P.S. - Durg, District Durg, Chhattisgarh for the offence under Section 376(2)(n), 376(3), 506 of the IPC and Section 4, 5(३), 6 of the Protection of Children from Sexual Offences Act.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in jail since 07-09-2020. The case against the applicant is totally false. The FIR lodged is delayed, regarding which there is no explanation. The statement of the prosecutrix under Section 161 of the Cr.P.C. shows that she was a willing and consenting party, further, the MLC report of the prosecutrix has not supported the prosecution case. The special emphasis for grant of bail is made on this basis, that the applicant is suffering from serious ailments. He had to be hospitalized while he is in jail. The documents have been filed which have been obtained under Right to Information Act. Therefore, it is prayed that he may be granted bail and if the Court is not convinced, the applicant may be granted temporary bail to pursue

the treatment and follow-up, which is required for medical condition of the applicant.

3. Learned counsel for the State/non-applicant opposes the application submitting that the age of the prosecutrix was only 13 years and 10 months on the date of incident. Further, there are total 09 previous cases registered against him under the various provisions of the IPC and Arms Act and looking to his criminal history, he is not entitled for grant of regular bail.

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

5. The case in hand is this, that it is alleged that this applicant forcefully abducted the minor victim of age below 16 years and then by putting her under threat he raped her regarding which the FIR has been lodged.

6. Considered on the submissions. On merits it is not a good case for grant of bail. The other ground raised by the applicant for grant of temporary bail on this basis that he is suffering from very serious ailments, is taken into consideration. On perusal of the documents filed which are medical documents regarding treatment of the applicant in jail, it is disclosed that the applicant is suffering from neurological disorder regarding which he is being treated and for some time he was also hospitalized. Hence, only on the basis of this medical condition, I am of this view that the applicant should be enlarged on temporary bail. Therefore, after due consideration, this application is allowed with modification and the applicant is granted temporary bail. It is directed that the applicant shall be released on temporary bail for a period of six months 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.

Learned Court below before which the bail bond shall be furnished shall fix the date for appearance and surrender of the applicant.

7. The bail petition is disposed off.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil