

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3319 of 2021

- Ritesh Vyapari S/o Shri Ranendra Vyapari, Aged About 19 Years, Caste - Namoshudra (Bagali) R/o Village - P. V. 39, Thana and Tahsil - Pakhanjur, Civil and Revenue District - North Baster Kanker Chhattisgarh., District : Kanker, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through, Station House Officer, Police Station- Pakhanjur, District- North Baster Kanker Chhattisgarh., District : Kanker, Chhattisgarh

----Non-applicant

For Applicant – Shri Sunil Sahu, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

03-08-2021

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 20-01-2021 in connection with Crime No.06/2021 registered at P.S. - Pakhanjur, District- North Baster Kanker, Chhattisgarh for the offence under Section 376, 376(2)(n), 376(3) of the IPC and Section 04, 06 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 20-01-2021. The statement of the prosecutrix under Section 164 reveals that there had been affair and consensual relation between the applicant and the prosecutrix. The prosecutrix was not minor on the date of incident. The applicant intends to challenge the ground of minority of the prosecutrix in trial. The complainant had appeared before the Sessions Court and filed affidavit in support of the application for grant of bail to the applicant, which was not considered. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix had been of age below 15 years, therefore, her consent and willingness is immaterial. As a result of the relationship with the applicant the minor prosecutrix had also become pregnant. Therefore, the application may be rejected.
4. Complainant Shanti Rani Rai and the minor prosecutrix both are virtually present through Help Desk of DLSA Kanker. They have no 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, this applicant allured the minor prosecutrix of age about 15 years and had physical relation with her, because of which the minor prosecutrix became pregnant and then the FIR has been lodged.
7. Considered on the submissions. After considering on the statement of the prosecutrix under Section 164 of the Cr.P.C. and also that the complainant has no objection in grant of bail to the applicant, 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