

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4017 of 2021

- Roshanlal Sahani/Gada S/o Babla Sahani/Gada, Aged About 23 Years, R/o Village Khadma, Post Office and P.S. Chhura District Gariyaband Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh; Through: The P.S. Chhura, District Gariyaband Chhattisgarh

----Non-applicant

For Applicant – Shri Praveen Kumar Tulsyan, Advocate.

For Non-applicant/State – Shri Amit Kumar Verma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-07-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 18-05-2020 in connection with Crime No.42/2020 registered at P.S. - Chhura District Gariyaband, Chhattisgarh for the offence under Section 366, 376 (2)(n) of the IPC and Section 6 of the Protection of Children from Sexual Offences Act.

2. It is submitted on behalf of the applicant, that this is second bail application filed before this Court by the applicant. His first bail application MCRC No.3966/2020 was dismissed as withdrawn on 18-08-2020 with liberty to file repeat application after examination of the prosecutrix. It is submitted that the applicant has been falsely implicated. He is in jail since 18-05-2020. The trial is not getting any progress after filing of the charge sheet. The prosecutrix in this case has expired, therefore, her appearance before this Court is no longer possible. Hence, under these circumstances it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

submitting that according to the statement of the prosecutrix present against this applicant under Section 164 of the Cr.P.C., the applicant is not entitled for grant of bail.

4. Notice issued to the prosecutrix/complainant has been returned served with a note that the prosecutrix has expired.

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

6. According to the prosecution case, this applicant on pretext of marrying the minor prosecutrix forcefully had physical relation with her on numerous occasions, because of which she became pregnant and gave birth to a child who expired after some time. The prosecutrix herself lodged the FIR against this applicant.

7. Considered on the submissions. Looking to the fact that the prosecutrix herself is lodger of the FIR and there is statement that relation of the applicant with her was forceful, I do not 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 rejected. However, looking to the length of detention of this applicant in jail, learned trial Court is directed to expedite the trial against this applicant and conclude the same preferably within 5 months from the date of this order.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge