

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4207 of 2021

- Shiv Kumar Rajwade, S/o Hulas Rajwade, Aged About 21 Years R/o Village Maheshpur, Police-Station-Jainagar, Tahsil Surajpur, District-Surajpur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Outpost Latori, Police Of Police Station Jainagar, District-Surajpur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. P.K. Tulsyan, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

10/08/2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.301/2020 registered at Police-Station- Outpost Latori, P.S.-Jainagar, District-Surajpur(C.G.) for the offence punishable under Sections 366, 376(2) (ॐ), 323, 376/109, 450 r/w 34 of IPC and Sections 6 of POCSO Act, 2012 and Sections 4, 5 of the Chhattisgarh Tonhi Pratadana Nivaran Adhiniyam, 2005.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since

11.12.2020. The prosecutrix was not minor on the date of incident and, further, there had been consensual relationship of the applicant with the prosecutrix, which is reflected from her statement under Section 161 & 164 CrPC. Only for the reason that the prosecutrix was driven out from the house of the applicant after she was alleged to be sorcerer, the FIR has been lodged, which is totally false, therefore, it is prayed that this applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the prosecutrix was minor on the date when the affair between applicant and prosecutrix was started, therefore, her willingness and consent is immaterial. Further, looking to the other statement present against the applicant, this application may be rejected.
4. The prosecutrix had virtually appeared before this Court through the 'Help Desk' of DLSA, Surajpur on 28.07.2021. She had stated that she has objection in grant of bail to this applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that this applicant established physical relation with the minor prosecutrix in the year 2017 on pretext of marrying her in future. This relationship and the physical exploitation continued. Subsequent to which, the applicant took the prosecutrix to his own house where they resided for some time. Later on, the parents of the applicant refused to have the prosecutrix in their household alleging that she is a sorcerer and, thus, she was driven out of the house.

7. Considered on the submissions and on that basis, I feel inclined to allow the bail application of this applicant.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha