

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4147 of 2021

- Dilip Usendi S/o Mr. Ramsay Usendi, Aged About 19 Years, R/o Kerlapal, Ghotul Para, (Latapara), P.S. Narayanpur, District Narayanpur Chhattisgarh, District : Narayanpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through the Police Station Narayanpur, District Narayanpur Chhattisgarh, District : Narayanpur, Chhattisgarh

----Non-applicant

For Applicant – Shri Raza Ali, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-07-2021

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 28-11-2020 in connection with Crime No.187/2020 registered at P.S. - Narayanpur, District Narayanpur, Chhattisgarh for the offence under Section 376, 506 of the IPC and Section 4 and 6 of POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 28-11-2020. Charge sheet has been filed. The prosecutrix had appeared before the Sessions Court and made a statement of no objection mentioning that she has married the applicant and she wants to reside with him, which was not given any consideration. Therefore, there is no case present against this applicant. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the age of the prosecutrix had been below 16 years on the date of incident, therefore, her consent or willingness is immaterial. Hence, it is

prayed that the application may be rejected.

4. Notice was issued to the complainant which has been returned served, but there is no appearance and no representation.

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

6. According to the prosecution case, this applicant by putting the prosecutrix under threat raped her on the date of incident and he continued doing so until the prosecutrix became pregnant, subsequent to which, the FIR has been lodged.

7. Considered on the submissions and the facts present in the case. The rejection order mentions about no objection statement of the prosecutrix and also about affidavit filed by her in support of the application for bail filed by the applicant. Also, looking to the possibility of the delay in trial, 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