

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5004 of 2021**

Sushant Singh Pobiya, S/o. Karam Singh Pobiya, aged about 26 years, R/o. Village - Garhumriya, Chowki Juitmil Tahsil and District Raigarh, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Police Station : Chakardhar Nagar, District Raigarh, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Sanjay Agrawal, Advocate
For Respondent/State	: Mr. Shakti Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**04/08/2021**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.312/2021, registered at Police Station – Chakardhar Nagar, District – Raigarh (C.G.) for the offence punishable under Section 376 of the Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 22.06.2021. FIR in this case is delayed by almost six years as the date of incident is mentioned as 15.08.2014, therefore, the FIR is false. The present age of the prosecutrix is about 23 years. As it is mentioned that she had long relation with the applicant, which shows

her consent in that relation. Therefore, it is prayed that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that on the date of incident, the prosecutrix was minor of age about 16 years and after the first sexual relation with the prosecutrix, the applicant has continued with such relation up till few months, before lodging of FIR. It is because of threatening given by the applicant that he will interfere in the negotiation of the marriage of the prosecutrix, F.I.R. has been lodged. Therefore, the applicant is not entitled for grant of bail.
4. Prosecutrix is present virtually before this Court on notice through Help Desk of District Legal Services Authority, Raigarh and she has objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, the FIR has been lodged on 31.05.2021 stating that the applicant by use of force raped the minor prosecutrix on 15.08.2014, subsequent to which the applicant continued having physical relation with the prosecutrix on occasions until few months before lodging of FIR. Subsequent to which, he refused to marry the prosecutrix and has also threatened that he will interfere in the negotiation of marriage of the prosecutrix with other person.
7. Considered on the submissions and the facts present in the case. The delay in lodging of FIR needs explanation and further looking to the other facts and circumstances present in the case, and the present age of the prosecutrix, this Court is of the opinion that present is a fit

case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram