

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4922 of 2021

- Tomesh Kumar Sahu S/o Jagdish Sahu, Aged About 20 Years R/o Khursenga, Outpost Birejhar, Police Station Kurud, District - Dhamtari (Chhattisgarh), District : Dhamtari, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through : Outpost Birejhar, Police Station Kurud, District - Dhamtari (Chhattisgarh), District : Dhamtari, Chhattisgarh

---- Non-applicant

For Applicant – Shri Anil Gulati, Advocate.

For Non-applicant/State – Smt. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-09-2021

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 14-06-2021 in connection with Crime No.193/2021 registered at P.S. - Outpost Birejhar, Police Station Kurud, District - Dhamtari, Chhattisgarh for the offence under Section 376 of the IPC and Section 6 of Protection of Children from Sexual Offences Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 14-06-2021. The prosecutrix and her mother both have been examined in the trial and they have not supported the prosecution case. Hence, on this basis the applicant is entitled for grant of bail. Therefore, it is prayed that this application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix is so far below the age of 18 years and further she has given clear statement against the applicant under Section 161 and 164 of the Cr.P.C. Therefore, the application may be rejected.

4. Complainant Harish Kumar Vishwakarma had virtually appeared before

this Court on 04-08-2021 on notice and he had made statement of no objection in grant of bail to this applicant.

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

6. The prosecution case is this, that this applicant raped the minor prosecutrix of age below 18 years, regarding which the FIR has been lodged.

7. Considered on the submissions. Perused certified copy of the deposition of the prosecutrix and her mother, both are hostile witnesses as they have not supported the prosecution case. Therefore, looking to this development in the trial against this 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