

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4942 of 2021

- Tursingh Potai S/o Lakhmuram Potai, Aged About 22 Years, Resident of Village Chhotedhousa, Police Station Tadoki, Tahsil Antagarh, District South Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station Todaki, District South Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh

----Non-applicant

For Applicant – Shri C.R. Sahu, Advocate.

For Non-applicant/State – Shri Alok Nigam, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-08-2021

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 16-11-2020 in connection with Crime No.02/2020 registered at P.S. - Todaki, District South Bastar Kanker, Chhattisgarh for the offence under Section 376(2)(b) of the IPC and Section 4, 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 16-11-2020. Charge sheet has been filed. The incident in this case is of the year 2017 and 2018. The relationship of the applicant with the prosecutrix was consensual. The prosecutrix became pregnant and during her pregnancy she herself and the child in pregnancy both have died on 27-06-2018. The FIR has been lodged belatedly after passing of more than 1½ years on 15-02-2020, which is totally false. The prosecutrix was not minor on the date of incident and her relation with the applicant was consensual. Therefore, it is prayed that the applicant be granted bail.
3. Learned counsel for the State/non-applicant opposes the application

submitting that although the prosecutrix was not alive to give statement, but her mother has stated against this applicant regarding sexual exploitation by him of the minor prosecutrix. Therefore, the application may be rejected.

4. Complainant Taam Singh is virtually present through Help Desk of DLSA Kanker. He has no objection in grant of bail to this applicant.

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

6. According to the prosecution case, in the year 2017-18 this applicant by giving allurement to the minor prosecutrix had physical relation with her on more than one occasion, because of which she became pregnant and later on she has died during her pregnancy.

7. Considered on the submissions and the facts of the case. Looking to the circumstances present and that the complainant has no objection, I feel inclined to allow this applicant.

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