

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4945 of 2021

- Khileshwar @ Khillu Yadav S/o Kaushal Yadav, Aged About 19 Years, R/o Urla, Daamand Para, Durg, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The SHO P.S.- Mohan Nagar, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

----Non-applicant

For Applicant – Shri Avinash Chand Sahu, Advocate.

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

Shri Purnendra Khichariya, Advocate for the complainant.

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 19-03-2021 in connection with Crime No.71/2021 registered at P.S. - Mohan Nagar, District- Durg, Chhattisgarh for the offence under Section 376(2)(b) of the IPC and Section 4 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 19-03-2021. The statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows that there had been affair between her and the applicant and as it was disclosed to her mother, false FIR has been lodged. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the statement of the prosecutrix under Section 164 of the Cr.P.C. is very clear that the prosecutrix was forcefully raped by the applicant. The prosecutrix was minor. Therefore, the applicant is not entitled for grant of

bail.

4. Complainant is represented by counsel Shri Purnendra Khichariya. He has submitted that the complainant has no objection in grant of bail to the applicant.

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

6. According to the prosecution case, it is alleged that this applicant has committed trespass in the house of the minor prosecutrix. The compliant saw him who made his escape. Subsequent to which the prosecutrix narrated to her that the applicant had raped her. Hence, the FIR has been lodged.

7. Considered on the submissions and especially considered on the statement of the prosecutrix under Section 161 of the Cr.P.C. and the circumstances mentioned in the same. Further, there is also statement of no objection from the complainant side, therefore, 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