

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5164 of 2021

- Daneshwar Chakradhari S/o- Ramkumar Chakradhari, Aged About 18 Years 5 Months, R/o- Bhumiya Bice Mill, Saankra P.S.- Tilda, District- Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Berla District- Bemetara (Chhattisgarh), District : Bemetara, Chhattisgarh

----Non-applicant

For Applicant – Shri Vivek Sharma, Advocate.

For Non-applicant/State – Shri Anil Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24-08-2021

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 01-02-2021 in connection with Crime No.48/2021 registered at P.S. - Berla District- Bemetara, Chhattisgarh for the offence under Section 363, 366, 376 (2) (J) (N) of the IPC and Section 5 (३), 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 01-02-2021. The prosecutrix was a willing and consenting party and she was also not minor. The prosecutrix has been examined in the trial in which she has stated about physical relation without any mention about being forced for such relation. 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 diary statement of the prosecutrix clearly shows that she was raped by the applicant and further, she was minor, therefore, incapable of giving consent. Hence, the application may be rejected.

4. The prosecutrix has virtually appeared before this Court on 17-08-2021 on notice and she has objection in grant of bail to the applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. As per the case of prosecution, the applicant and the prosecutrix both knew each other and they had a liking for each other. The applicant proposed to the prosecutrix to go to Poona which she refused, but then the applicant compelled her for going Poona and took her to village Sankra, where he kept her in his custody and raped her. Subsequent to which, the prosecutrix was recovered by the police.
7. Considered on the submissions. Certified copy of the deposition of the prosecutrix has also been filed along with the application, after perusal of the same and considering on other circumstances, 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