

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5567 of 2021

- Ajay Das Manikpuri S/o Shri Chain Das Manikpuri, Aged About 20 Years, Caste Panika, R/o Village Sutli Police Outpost Giraudpuri, Police Station Gidhauri, District- Balodabazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The SHO Police Station Gurur, District- Balod, Chhattisgarh., District : Balod, Chhattisgarh

----Non-applicant

For Applicant – Shri Avinash Chand Sahu, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06-10-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 06-05-2020 in connection with Crime No.61/2020 registered at Police Station – Gurur, District- Balod, Chhattisgarh for the offence under Section 363, 109, 376 (घ), 342/ 34 of the IPC and Section 4, 5(घ), 6, 17 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant, that this is second application filed by the applicant for grant of regular bail before this Court. His earlier bail application MCRC 6135/2020 was dismissed as withdrawn on 02-02-2021. Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in this case. Similarly placed co-accused persons, namely, Praveen Kumar Shrivastava and Umesh Kumar Thakur have been granted bail by this Court. The statement of the prosecutrix that have been recorded under Section 161 and 164 of the Cr.P.C. and before the Child Welfare Committee are contradicting each other. Name of this applicant has

not appeared in the FIR. 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 and submits that although name of this applicant has not appeared in the FIR, but the prosecutrix has clearly stated against this applicant in her statement under Section 161 and 164 of the Cr.P.C. Further, it is a case of gang rape. Therefore, the applicant is not entitled for grant of bail.

4. The prosecutrix had virtually appeared before this Court on 20-09-2021 and she has objected to grant of bail to the applicant.

5. The prosecution case is this, that the minor prosecutrix of age 13 years was enticed by co-accused Dipika Gond. Co-accused Dipika Gond then handed over the minor prosecutrix to Yogesh, who took her to his own house where she was raped by co-accused Kishan and this applicant one by one. The prosecutrix has again named that the applicant and Kishan are the persons who have gang raped. The missing report was lodged by father of the prosecutrix on which offence under Section 363 of the IPC only was registered, but later on other offences have been added. Hence, this case.

6. Considered on the submissions. Although, there is statement of the prosecutrix before the Child Welfare Committee in which she has not named this applicant, but there is consistency of statements against this applicant and the co-accused Kishan. The case of other co-accused persons, namely, Praveen Kumar Shrivastava, Umesh Kumar Thakur and Yogesh Kumar Sahu is different compared to the case against this applicant. Therefore, I do not feel inclined to allow this application.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge