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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5180 of 2021

- Anwar Ali, S/o Shri Ejaz Ali, Aged About 20 Years, R/o Village Macha, Police Station Maudha, District Hamirpur (Uttar Pradesh) Present R/o C/o Radha Thakur, M 229, RDA Colony, Boriyakhurd Police Station Tikrapara, District Raipur (Chhattisgarh)., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Police Station Tikrapara, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

----Non-applicant

For Applicant – Shri Pragalbha 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 26-02-2021 in connection with Crime No.62/2021 registered at P.S. - Tikrapara, District Raipur, Chhattisgarh for the offence under Section 376, 323, 506 of the IPC and Section 6 of the POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 26-02-2021. Charge sheet has been filed. The prosecutrix has clearly admitted in her statement under Section 164 of the Cr.P.C. that she and the applicant both were having affair. It is because of some dispute between the applicant and the prosecutrix, 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 diary statement of the prosecutrix makes clear allegation of rape against this applicant and further, she was minor, therefore, her consent and willingness is immaterial. It is also submitted that the applicant is resident

of Uttar Pradesh, therefore, if he is granted bail, he may not be available for trial. Hence, the application may be rejected.

4. The prosecutrix is virtually present through Help Desk of DLSA Raipur. She has no 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 were acquainted to each other. It is alleged that in the month of June 2020 for the first time the applicant had forceful physical relation with the minor prosecutrix and subsequent to that, he again had forceful physical relation with her on 15 August, 2020. The prosecutrix became pregnant regarding which she informed the applicant. The applicant administered some medicine for aborting her pregnancy, but the pregnancy could not be aborted, subsequent to which the applicant brought the prosecutrix to reside with him and during that period he on account of some dispute has thrashed and beaten her. Subsequent to which the FIR has been lodged.

7. Considered on the submissions. Looking to the circumstances that are present in the case and also that the prosecutrix has no objection in grant of bail to 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