

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 5799 of 2021

Rajkumar @ Panchram Markam S/o Vishal Singh Markam, Aged About 32 Years R/o Village - Silli (Parsada), Mahamayapara, Police Station - Pali, District - Korba Chhattisgarh. **---- Applicant**

Versus

State Of Chhattisgarh, Through - Station House Officer, Out Post - Hardibazar, Police Station - Kusmunda, District - Korba Chhattisgarh.

---- Non-Applicant

For the Applicant:	Shri Dharmesh Shrivastava, Advocate.
For Non-Applicant/State:	Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24.09.2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the Applicant, who has been arrested in connection with Crime No.31/2018, registered at Police Station – Kusmunda, Out Post - Hardibazar, District Korba, Chhattisgarh for the offence punishable under Section 376 IPC and under Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned Counsel for the Applicant submits that the Applicant is in jail since 07.02.2020 and has been falsely implicated in this case. The charge sheet has been filed. The statement of the prosecutrix under Sections 161 & 164 Cr.P.C. reflects that she was a consenting party as she neither objected nor raised any alarm during the time when she was in the company of the present Applicant. He further submits that FIR has been lodged with an ordinate delay, hence, it is prayed that the Applicant may be enlarged on bail.

3. On the other hand, learned Counsel for the State opposes the bail application and submissions were made in this respect. It is submitted that the age of the prosecutrix was below 18 years on the date of incident, hence, any consent given by her is immaterial. He further submits that the Prosecutrix has, in her statement recorded under Section 164 of Cr.P.C, stated that she was forcibly raped by the present Applicant and therefore, no case is made out for grant of regular bail to the Applicant.

4. The Prosecutrix was virtually present before this Court on 08.09.2021 and had no objection in grant of bail to the Applicant.

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

6. According to the prosecution case, it is alleged that the Applicant and the minor Prosecutrix eloped together in the month of *Baisakhi* in the year 2017, subsequent to which, she was continuously kept in custody by the Applicant till 07.02.2020. During this period, the minor Prosecutrix had been sexually exploited by the Applicant on number of occasions due to which, she became pregnant.

7. Considered the submissions and the facts present in this case. Taking into consideration the statement of the Prosecutrix recorded under Section 164 Cr.P.C and the fact that the Applicant is in jail since more than one year and there is likelihood of delay in the trial, I feel inclined to grant regular bail to the Applicant in this case.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that 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 trial Court for his appearance before the said Court as

and when directed. In case any default is committed by the Applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Priya