

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5343 of 2021**

Nohar Nishad S/o Sarvan Nishad Aged About 22 Years (wrongly mentioned as 24 years in the order sheet) R/o Village-Mohandi, Navdurga Chowki, Tehsil- Dharsiwa, District- Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through S.H.O., P.S. - Pandri, District- Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Trivikram Nayak, Advocate.
For the Respondent/State : Smt. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****24.08.2021**

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.1 of 2021, registered at Police Station – Pandri, District – Raipur, Chhattisgarh for the offence punishable under Sections 376, 376(2)(N) and 506 of the Indian Penal Code and Section 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 4.1.2021 and has been falsely implicated in this case. The prosecutrix was willing and consenting party, which is reflected in her statement under Section 164 of the Cr.P.C. Further, the prosecutrix was not minor on the date of incident as it is mentioned in her statement under Section 164 of the

Cr.P.C. that she was aged about 19 years. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix was minor of age below 18 years on the date of incident and further, the statement under Section 161 of the Cr.P.C. clearly alleges the commission of rape by the applicant. Hence, no case is made out for grant of bail to the applicant.

4. The prosecutrix is present before this virtual Court through the Help-Desk of DLSA, Raipur. She made a statement that she has 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 this applicant on pretext of marrying the minor prosecutrix has raped her on more than one occasion. As a result of which, the prosecutrix became pregnant, she gave birth to a child and the child has expired soon after the delivery.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and the statement of no objection made by the prosecutrix herself, 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 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