

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5491 of 2021

- Dulal Ray S/o Late Umesh Ray, Aged About 52 Years, By Caste Namoshudra, R/o Village- P.V. 46, Ward No. 1, Pakhanjore, District- Uttar Baster Kanker, Chhattisgarh., District : Kanker, Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh, Through Police Station- Pakhanjore, District - Uttar Baster Kanker, Chhattisgarh., District : Kanker, Chhattisgarh

----Non-applicant

For Applicant – Shri Parag Kotecha, Advocate.

For Non-applicant/State – Shri Shakti Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07-09-2021

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 15-02-2021 in connection with Crime No.23/2021 registered at P.S. - Pakhanjore, District - Uttar Baster Kanker, Chhattisgarh for the offence under Section 366, 376(AB), 506, 363, 342 of the IPC and Section 6 of Protection of Children from Sexual Offences Act and Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 15-02-2021. The story of the prosecution is highly improbable and although the minor prosecutrix has leveled allegation against this applicant regarding rape, but the medical evidence is totally silent and there is no opinion regarding any physical relation with the minor prosecutrix. Therefore, the whole prosecution story is unbelievable. Hence, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

submitting that the statement of the prosecutrix under Section 164 of the Cr.P.C. is very clear and categorical mentioning the offence of rape committed by this applicant on more than one occasion. Therefore, there is no case present for grant of bail.

4. Notice was served upon the complainant, but there was no appearance and no representation.

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

6. According to the prosecution case, it is alleged that this applicant has allured the minor prosecutrix of age about 09 years and then he has raped her on more than one occasions, regarding which the FIR has been lodged.

7. Considered on the submissions. Looking to the nature of the allegation present against this applicant and also the age of the minor prosecutrix, I do not 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 rejected.

9. On the request made by learned counsel for the applicant, the learned trial Court is directed to expedite the trial and conclude the same at the earliest.

10. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge