

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5312 of 2021

- Tarun @ Lucky Banjare, S/o Suresh Banjare, Aged About 21 Years, R/o Village - Bhoring, Police Station - Tumgaon, District - Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through the Station House Officer, Police Station – Fingeshwar, District - Gariyaband Chhattisgarh., District : Gariyabandh, Chhattisgarh

----Non-applicant

For Applicant – Mr. Shivendu Pandya, Advocate.

For Non-applicant/State – Ms. Smriti Shrivastava, Panel Lawyer.

Mr. Govind Dewangan, Advocate for the prosecutrix/complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-08-2021

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 06-04-2021 in connection with Crime No.78/2021 registered at P.S. - Fingeshwar, District - Gariyaband, Chhattisgarh for the offence under Section 376 (2) (n) of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 06-04-2021. The FIR in this case is delayed and lodged on 03-04-2021. The statement of the prosecutrix herself reveals that the offence has continued for 01-01-2017 till the date the FIR was lodged on 03-04-2021, for about more than three years, which shows that the relationship of the applicant with the prosecutrix was consensual. The prosecutrix was not minor on the date she lodged the FIR. Further, her statement under Section 161 and 164 of the Cr.P.C. also reflects her willingness and consent. Hence, it is prayed that the application be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix had been minor on the first date of incident and she was of age below 16 years, therefore, her consent and willingness at that point of time is immaterial. Hence, the application may be rejected.
4. Mr. Govind Dewangan, Advocate has appeared on behalf of the complainant and submits that the complainant/prosecutrix 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 prosecution case, it is alleged that this applicant on pretext of marrying the minor prosecutrix started exploiting her sexually by having physical relation with her continuously on numerous occasions and this has continued till lodging of the FIR on 03-04-2021.
7. Considered on the submissions and the facts present in the case and I am of this view that it is a fit case in which the applicant should be granted bail.
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