

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5501 of 2021

- Sangharsh @ Sen Kumar Pisda S/o Mohar Lal, Aged About 23 Years, R/o Kotera, P.S.- Daundi Lohar, Distt. Balod, Chhattisgarh., District : Balod, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through the Police Station Narayanpur, Distt. Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh

----Non-applicant

For Applicant – Shri Raza Ali, Advocate.

For Non-applicant/State – Smt. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09-09-2021

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 26-08-2020 in connection with Crime No.109/2020 registered at P.S. - Narayanpur, District Narayanpur, Chhattisgarh for the offence under Section 376 of the IPC and Section 4, 6 of POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 26-08-2020. The relationship of the applicant with the prosecutrix was consensual and further, the prosecutrix was not minor on the date of incident. The prosecutrix has been examined in the trial and she has made clear statement that she was not minor on the date of incident. The mother of the prosecutrix has also been examined and she has also made similar statement. Hence, there is no case present against this applicant. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor, according to the proof of her date of birth present in the case diary and the charge sheet. Therefore, her willingness

and consent is immaterial. Hence, the application may be rejected.

4. The prosecutrix had virtually appeared before this Court on 01-09-2021 through Help Desk of DLSA Kondagaon on notice and submitted that she wants to reside with the applicant.

5. Heard learned counsel for 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 sexually exploited her on numerous occasions, because of which she became pregnant and then the FIR was lodged.

7. Considered on the submissions. Perused certified copy of the deposition of the prosecutrix and her mother and looking to that and also that the prosecutrix herself has no objection in grant of bail to the 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