

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.5681 of 2021

- Sunni @ Manish Pandey, S/o Ram Milan Pandey, A/A 21 Years, R/o Bamauri, Police Station Katra, District Bhadauri (U.P.), present address Tiraiya, Police Station Dharsiva, District Raipur (CG)
---- **Applicant (In Jail)**

Versus

- State of Chhattisgarh, through Police Station- Mandir Hasaud, Raipur (CG).

....**Non-applicant**

For Applicant	:	Mr. Arvind Shrivastava, Advocate
For Non-applicant	:	Mr. Srikant Kaushik, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

3.9.2021

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 9.7.2021 in connection with Crime No.451/2020 registered at Police Station Mandir Hasaud, District Raipur (CG) for commission of offence punishable under Sections 363, 366, 376, 376 (2) (n) of the Indian Penal Code and Section 6 of the Prevention of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that in the night intervening 23rd & 24th December, 2012 applicant took the prosecutrix along with him to the house of his friend situated in Ambikapur and there he forcibly committed sexual intercourse with her. After staying for some time in Ambikapur, on 5.1.2021 applicant left the prosecutrix in Raipur from where she went to her parents' house and thereafter report of incident was

lodged against applicant.

3. Mr. Arvind Shrivastava, learned counsel for applicant would submit that out of physical relationship between applicant and prosecutrix, a male child was born, who is about two & half months. Prosecutrix is more than 18 years of age. Applicant has been arrested by police on 9.7.2021, charge sheet has already been filed and conclusion of trial may take some time. Hence, applicant may be granted regular bail.
4. Per contra, Mr. Srikant Kaushik, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that prosecutrix in her statement recorded under Section 161 of CrPC has made allegation of forcible sexual intercourse with her by applicant in the house of his friend. However, he submits that in the statement recorded under Section 164 of CrPC the prosecutrix has stated that now applicant intends to marry her. He submits that on the date of incident, prosecutrix was below 18 years of age, hence applicant is not entitled for grant of regular bail.
5. Prosecutrix and her mother are also present in person through virtual mode from the District Legal Services Authority, Raipur. They state that they are having no objection in grant of regular bail to applicant. The prosecutrix states that she is residing in the house of applicant.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of case, nature of allegations, submissions made by learned counsel for applicant as also prosecutrix and her mother, without

commenting anything on merits of the case, I am inclined to allow this bail application.

8. Accordingly, the application is allowed and 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 trial Court concerned on the conditions that;
- a) he shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) he shall not, in any manner, tamper with the prosecution witnesses.
 - c) If applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-