

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6166 of 2021

- Samir Xalxo S/o Late Luis Xalxo, Aged About 28 Years, R/o Village Nimtoli Jhankudbasti, P.S. Farsabahar, District Jashpur (C.G.), District : Jashpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Farsabahar, District Jashpur (C.G.), District : Jashpur, Chhattisgarh

----Non-applicant

For Applicant – Shri Ajeet Kumar Yadav, Advocate.

For Non-applicant/State – Shri Ajay Kumarani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20-09-2021

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 17-06-2021 in connection with Crime No.26/2021 registered at P.S. - Farsabahar, District Jashpur, Chhattisgarh for the offence under Section 376(3), 450 of the IPC and Section 4 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 17-06-2021. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows that it was a case of only attempt to rape, therefore, the FIR lodged is totally false. Hence, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the age of the prosecutrix had been 12 years and 2 months only and further, she has made clear statement against the applicant under Section 161 of the Cr.P.C. Therefore, the application may be rejected.

4. The complainant Birtila Minj is physically present before this Court and

she has objected to grant of bail to the applicant.

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

6. According to the prosecution case, on the date of incident this applicant forcibly entered into the house of the minor prosecutrix and then he forcibly raped her. It was at that time, mother of the prosecutrix who is the complainant arrived on the spot. Subsequent to which, the FIR has been lodged.

7. Considered on the submissions. Looking to the facts and circumstances of this case, I am of this view that it is not a fit case for grant of bail.

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. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge