

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7196 of 2020

- Somesh Kumar Kamadi @ Sonu Kamadi, S/o Natthu Lal Kamadi, Aged About 20 Years, Caste Mahar, Resident of Village Ward No. 14, Fingeshwar, P.S. Fingeshwar, District-Gariyaband, Chhattisgarh (Detail Not Mentioned In the rejection order of the learned Court below)

---- Applicant

Versus

- State of Chhattisgarh Through- Station House Officer, Police Station- Fingeshwar, District-Gariyaband, Chhattisgarh

---- Respondent

For Applicant	:	Mr. A.D. Kuldeep, Advocate.
For Respondent/State	:	Mrs. Smita Jha, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

09/02/2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.155/2020 registered at Police-Station-Gariyaband "Fingeshwar", District-Gariyaband(C.G.) for the offence punishable under Section 376 of IPC and Section 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. Her statement about the physical relation with the applicant from two years prior to the date of lodging of FIR is vague and imaginary. Otherwise, it is admitted that applicant

and the prosecutrix both were having an affair. No case is made out against this applicant, therefore, it is prayed that he may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the prosecutrix was minor when the incident occurred and continued for some time, during which the prosecutrix was not competent to give valid consent for physical relation, therefore, no case is made out for grant of bail to this applicant.
4. The complainant/prosecutrix is present before this Court on notice. She has submitted that she has no objection in grant of bail to the applicant .
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, It is submitted that about two years prior to the lodging of FIR, the applicant and the prosecutrix both started meeting each other and they also had physical relation which continued for some time. It is alleged in the statement of prosecutrix, that on 28.8.2020, this applicant again came to her house and had physical relation with her and then he also threatened her that she should not marry anybody else. Again on 8.9.2020, the applicant thrashed the minor prosecutrix for the same reason. Hence, this case.
7. Considered on the submissions and the facts present in the case and also the statement of no objection made by the prosecutrix herself, I feel inclined to allow the application of this applicant.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his

furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha