

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6966 of 2021**

Ankush Yadav, S/o Shri Rajkumar Yadav, Caste Yadav, Aged About 24 Years, R/o Ram Sagar Para, Raipur, District - Raipur (C.G.).

---- Applicant**Versus**

State of Chhattisgarh Through The Station House Officer, Police of Police Station Balod, District - Balod (C.G.).

---- Non-applicant

For Applicant : Mr. Shikhar Sharma, Advocate

For Non-applicant/State : Mr. Vinod Tekam, P.L.

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****26.11.2021**

1. Prosecutrix and her father appeared before this Court on 21.10.2021 through virtual mode from District Legal Services Authority, Balod and submitted that they have no objection in grant of bail to the applicant, which was recorded.
2. 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 10.08.2021 in connection with Crime No.232 of 2021 registered at Police Station Balod, District Balod (C.G.) for commission of offence punishable under Sections 363, 366, 368, 376-2(n), 506-B, 34 of IPC and Section 5(l)/6 of the Protection of Children from Sexual Offences, Act, 2012.

3. Case of the prosecution, in brief, is that prosecutrix lodged a report on 27.07.2021 making allegations against the applicant that applicant gave phone call to her on mobile in the year 2018 and thereafter, there was talking terms between them. Applicant for the first time had made physical relationship with the prosecutrix in the year 2018. Based on the complaint, aforementioned crime was registered against the applicant and applicant was arrested on 10.08.2021.
4. Mr. Shikhar Sharma, learned counsel for the applicant would submit that there was friendship between applicant and prosecutrix since 2018, but he has not made any physical relationship with prosecutrix prior to the year 2021. On 07.04.2021, prosecutrix accompanied applicant, went to his house and resided there for about four months continuously as husband and wife. Due to some dispute, she left the house of applicant and returned back to her father's house and thereafter, a report was lodged. Prosecutrix was examined before the trial Court on 15.11.2021, she has not supported the case of prosecution in any manner. He further submits that she has denied that any incident had taken place in the year 2018, but stated that she had married with applicant, hence, applicant may be enlarged on bail.
5. Mr. Vinod Tekam, learned State Counsel opposing the submissions made by learned counsel for the applicant, would submit that in the FIR and statement recorded under Section 161 of Cr.P.C. of prosecutrix, she had made specific allegation that applicant committed sexual intercourse with prosecutrix in the

year 2018 and on the said date, prosecutrix was less than 18 years, hence, applicant is not entitled for the benefit under Section 439 of Cr.P.C.

6. On putting specific query to learned State counsel with regard to age of the prosecutrix, learned State counsel submits that as per school register, date of birth of the prosecutrix is mentioned as 17.04.2000.
7. I have heard learned counsel for the parties.
8. Taking into consideration the facts and circumstances of the case, nature of allegation, period of pretrial detention of applicant, age of prosecutrix on the date of lodging of report to be about 21 years, submission of learned counsel for the applicant that prosecutrix was examined before the trial Court and she has not supported the case of the prosecution, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
9. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local 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 the 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

Yogesh