

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7708 of 2020

- Pushpendra Dhruv, S/o Pritam Singh Dhruv, Aged About 23 Years R/o Village Khuteri, Police Station Khallari, Tehsil Baghbahra, District-Mahasamund Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh, Through Police Station Khallari, District Mahasamund Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Shubhank Tiwari, Advocate.
For Respondent/State	:	Mr. B.P. Banjare, Dy. Govt. Advocate.

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

29/01/2021

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.173/2020 registered at Police-Station-Khallari, District-Mahasamund(C.G.) for the offence punishable under Sections 376(2)(n) of IPC and Sections 4 & 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated. In the statement, the prosecutrix has made false allegation against the applicant regarding her relation. Prosecutrix has given birth to a child, which she has abandoned because of which offence has been registered against her also. The

applicant denies, that the child borne to the prosecutrix has been parented by him. The FIR was lodged on 24.4.2020 and the statement of the prosecutrix was recorded for the first time on 24.9.2020, after a lapse of 5 months, in which, she has made allegations against the applicant under the pressure of her parents. The applicant is in jail since 25.9.2020. The charge-sheet has also been filed after completion of investigation, hence, 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 submissions made in this respect. It is submitted that the date of birth of the prosecutrix was 13.9.2002 and she has alleged that her relation with applicant was going on from 25.4.2018 up till 25.4.2020, during which she had conceived and later on given birth to a stillborn child on 21.9.2020. Samples of the child and the accused both has been preserved and sent for DNA examination. The report is awaited, hence, it is not a fit case in which the applicant should be granted bail.
4. Notice was issued to the complainant/prosecutrix which has been returned served upon the mother of the prosecutrix, but there is no appearance and no representation.
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 the minor prosecutrix of age below 16 years was sexually exploited by this applicant for about 2 years as a result of which the prosecutrix became pregnant. The prosecutrix then lodged FIR on 24.4.2020. subsequent to which the case has been investigated and charge-sheet has been filed.

7. Considered on the submissions from the applicant side. There appears to be a delay of about 5 months in the recording of the statement of prosecutrix. The applicant is alleging concoction of case against him, hence, 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