

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7666 of 2020

- Mannu Kumar Shah @ Monu, S/o Krishna Shah, Aged About 24 Years, R/o Village Baniyatola, Police Station Nautan, District Sivan (Bihar). Present Address Kailash Residency, House No.10, Shankar Nagar, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Police Station Ranchirai, District Balod, Chhattisgarh., District : Balod, Chhattisgarh

---- Non-applicant

For Applicant – Shri Vivek Mishra, Advocate.

For Non-applicant/State – Shri Saumya Rai, Panel Lawyer.

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

29-01-2021

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 28-09-2020 in connection with Crime No.114/2020 registered at Police Station – Ranchirai, District Balod, Chhattisgarh for the offence under Section 363, 366 and 376 of the IPC and Section 4, 5(I) & 6 of the Protection of Children from Sexual Offences Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The FIR lodged on 26-09-2020 by the maternal uncle of the prosecutrix mentions that according to the informant age of the prosecutrix was above 18 years on the date of incident. Further, the statement of the prosecutrix under Section 161 of the Cr.P.C. shows her willingness and consent for going with the applicant and having physical relation with him, there is also statement about performance of marriage with the applicant. The actual date of birth of the prosecutrix is 21-09-2001 according to the school register. Copy of Adhar Card and entry in the school register has been produced in support of this application. The prosecutrix sworn an affidavit in support of this application which is filed by a covering

memo which mentions that her date of birth is 21-09-2001 and that she has performed marriage with this applicant. Hence, there is no case against this applicant. Therefore, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that certificate that has been issued by the department of Finance, Planning and Economic Statistics mentions that date of birth of the prosecutrix is 13-09-2003 and on this basis the prosecutrix was minor on the date of incident. Further, the statement of the prosecutrix reveals that she and the applicant both had relationship since the time when she was minor. Therefore, the offences registered are made out against the applicant. Hence, the application may be rejected.

4. Complainant Daman Lal Sinha is present before this Court on notice. He has stated that he has objection in grant of bail to the applicant.

5. Heard the submissions made and perused the case diary.

6. According to the prosecution case, the prosecutrix went missing on 05-01-2020. Subsequently, one FIR was lodged on 26-09-2020 by the maternal uncle of the prosecutrix. After recovery of the prosecutrix she has given statement on which basis offences have been registered against the applicant.

7. Considered on the submissions and facts of the case. Reliance of the applicant side on the entry in the school register cannot be ignored. Further, the affidavit sworn by the prosecutrix herself has to be taken notice of. Otherwise also looking to the statement of the prosecutrix under Section 161 of the Cr.P.C., I am of this view that the applicant should be granted regular bail.

8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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

concerned Court, for his appearance as and when directed.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil