

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8332 of 2020

- Chalki Kashyap S/o Dulbo Kashyap, Aged About 28 Years, R/o Village - Airmur Mithupara, Police Station - Mardum, Tehsil Lohandiguda, District - Bastar-Jagdalpur (Chhattisgarh), District : Bastar(Jagdalpur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through - Police Station Mardum, District - Bastar-Jagdalpur (Chhattisgarh), District : Bastar(Jagdalpur), Chhattisgarh

---- Non-applicant

For Applicant –Shri Ashutosh Shukla and Shri Ashok Kumar Komra, Advocates.

For Non-applicant/State – Shri B.P. Banjare, Deputy Govt. Advocate.

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

08-01-2021

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 19-09-2020 in connection with Crime No.28/2020 registered at Police Station – Mardum, Civil and Revenue District - Bastar-Jagdalpur, Chhattisgarh for the offence under Section 376, 506 of the IPC and Section 06 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix was not minor on the date of incident. Further, no incident of rape has occurred. The prosecutrix has been examined in the trial, copy of her deposition is produced along with the application which shows that she has not supported the prosecution case. Therefore, there is nothing left in the case against this applicant. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that according to the proof of date of birth collected in the

investigation the prosecutrix was minor on the date of incident, and further she has admitted in her diary statement about her relationship with the applicant which amounts to commission of offence of rape. Hence, no case is made out for grant of bail. Therefore, the application may be rejected.

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

5. The prosecution case is this, that on the date of incident the applicant called the minor prosecutrix and then against her willingness and consent he forcefully raped her. The applicant also threatened the prosecutrix for not disclosing about the incident to anybody, regarding which the FIR has been lodged.

6. Considered on the submissions and facts of the case and also perused certified copy of the deposition of the prosecutrix. On perusal of this deposition it is found that she has not at all supported the prosecution case and she has been declared hostile witness by the prosecutor. Hence, looking to this development, I feel inclined to allow this application.

7. 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge