

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7491 of 2021

- Jai Prakash Miri S/o Shri Panbecha Miri, Aged About 19 Years, R/o Barbhatha, P.S. Koshir, District Raigarh Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh through Station House Officer, Police Station Koshir, District Raigarh Chhattisgarh

----Non-applicant

For Applicant – Shri Pankaj Singh, Advocate.

For Non-applicant/State – Shri Ravi Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-11-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested in connection with Crime No.272/2020 registered at P.S. - Koshir, District Raigarh, Chhattisgarh for the offence under Section 376 of the IPC and Section 6 of POCSO Act.

2. It is submitted on behalf of the applicant, that this is second bail application filed by the applicant before this Court. His first bail application MCRC No.1626 of 2021 was dismissed as withdrawn on 30-07-2021. Learned counsel for the applicant submits that the applicant has been falsely implicated. The prosecutrix in this case was not minor on the date of incident and further there had been a love affair and consensual relation of the prosecutrix with the applicant. The FIR was lodged only after the prosecutrix became pregnant, which is delayed. Therefore, it is prayed that the applicant who is in jail since 29-11-2020 be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor and therefore, her consent, if any, is immaterial. Hence, the application may be rejected.

4. Notice was issued to the complainant/prosecutrix which has been returned served, but there is no appearance and no representation.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, it is alleged that this applicant knowing well that the prosecutrix was minor and unable to give consent exploited her sexually on numerous occasions, because of which she became pregnant. Subsequent to which, the FIR was lodged.
7. Considered on the submissions. Taking into consideration all the facts and circumstances of this case, I feel inclined to allow this application.
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