

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7515 of 2021**

Kawasi Deva @ Ganesh S/o Sannu Aged About 25 Years R/o Village
Kunna Bandipara Chhindgarh P. S. Kukanar District Sukma CG

---- Applicant

Versus

- State of Chhattisgarh through the Police Station Kukanar District
Sukma CG

---- Non-applicant

For applicant	Mr. P.K. Tulsian, Adv.
For non-applicant/State	Mr. B.L. Sahu, PL

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****9-11-2021**

1. As per applicant, this is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 4/2021 registered in police station Kukanar, Distt. Sukma, (CG) for offence punishable under 294, 506, 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
3. Brief facts of the case are that applicant frequently used to go to the house of complainant and insisted them to change their religion. During this, the applicant allured minor daughter of the complainant and on the pretext of marriage, he sexually exploited minor victim, due to which she got pregnant. Thereafter also, the applicant used to threat them and also abused them. On lodging report by mother of the victim/prosecutrix, present crime was registered in PS Kukanar against the applicant under Section 294, 506 and 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act. After completion of investigation, charge sheet for the aforesaid offences has been filed against the applicant which is pending and is at the stage of prosecution evidence.
4. Counsel for the applicant argued that the applicant has been falsely implicated in this case. He has not committed alleged crime. He also submitted that as per certificate issued by the Superintendent,

Residential Girls Pota Cabin, Chhindgarh, Block Development Chhindgarh, Distt. Sukma, victim has studied in Class 2nd and as per record maintained by aforesaid Pota Cabin, Chhindgarh, her date of birth is 10-2-2002 which is shown in Annexure A-3 filed along with the bail application. According to this document, victim was not minor on the date of incident. He also submitted that charge sheet has already been filed. Three witnesses have been examined. Victim prosecutrix in her deposition has stated that if the applicant would not follow Christianity, then she would not have lodged FIR against him. She has admitted that the applicant is her husband. He next argued that the applicant is in jail since 3-3-2021. Conclusion of trial is likely to take more time. Hence, the applicant may be enlarged on bail.

5. On the other hand, the State Counsel opposed the bail application and submitted that it is a case of rape of minor girl of the age of about 16 years at the time of incident. Trial is going on, hence the applicant is not entitled to be enlarged on bail.
6. Victim prosecutrix and her mother appeared before this Court through video conferencing from District Legal Services Authority, Sukma. They submitted their objection with regard to grant of bail to the applicant.
7. I have heard counsel for both the parties and perused the case diary as also material available on record.
8. As per case diary, both the parties are resident of Sukma district. There is dispute with regard to age of the prosecutrix. Statement of prosecutrix and her parents have been recorded in the court below. The applicant is in jail since 3-3-2021. Considering the facts and circumstances of the case, also taking into consideration the deposition recorded in the trial Court of victim and her parents, I feel inclined to allow the bail application. Therefore, the application is allowed. It is ordered that if the applicant furnishes one surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.
9. CC as per rules.

Sd/-
(N.K. Chandravanshi)
Judge