

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7780 of 2021**

- Raja Sahu S/o Lt. Shri Bholaram Sahu Aged About 22 Years R/o- Kurud Bandhwapara, Chowki - Silyari, P/s Dharsiwa, District Raipur (Chhattisgarh)

---- Applicant (In jail)**Versus**

- State Of Chhattisgarh Through Station House Officer, P/s- Dharsiwa, District Raipur (Chhattisgarh),

---- Respondent

For Applicant	: Shri Vinay Nagdev, Advocate
For Respondent/State	: Ms M Asha, PL

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

18.11.2021

1. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No.447 of 2020 registered at Police Station Dharsiwa, District- Raipur, Chhattisgarh for the offences punishable under Sections 376 and 506 of the IPC and Sections 4 and 6 of POCSO (Protection of Children from Sexual Offences) Act, 2012.
2. Case of the prosecution is that prosecutrix lodged a written report on 19.10.2020 making allegations that applicant took her on 18.10.2020 to his house and committed forceful intercourse with her. Based on her written report, aforementioned crime is registered against applicant.
3. Shri Vinay Nagdev, learned counsel for the applicant would submit that prosecutrix has lodged written report under pressure of her parents. After registration of FIR, statement of prosecutrix was recorded before the Judicial Magistrate under Section 164 of the CrPC, where she has not made any allegation of committing forceful intercourse by the applicant. He further submits that prosecutrix was examined before the trial Court in which she

stated her age to be 20 years on the date of her examination. She is having a baby aged about three months and she is residing in the house of applicant at present. Applicant is in jail since 20.10.2020, hence he may be enlarged on regular bail.

4. Ms M Asha, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that serious allegations are levelled against applicant by prosecutrix in written report. As per School Register seized by the Police during the course of investigation, prosecutrix on the date of incident was less than 18 years of age. Hence, applicant is not entitled for grant of bail. However, she does not dispute the copy of deposition sheet filed as Annexure A2 along with bail application.

5. Prosecutrix is present through virtual mode through DLSA-Raipur. She stated that she is having no objection in granting bail to the applicant.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations against applicant, submission made by learned counsel for applicant that prosecutrix turned hostile and has not supported prosecution case, pre-trial detention of applicant, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local

surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma