

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No.7883 of 2021

- Dev Kumar Dewangan, S/o Dimapal Kumar Dewangan, aged about 19 years, R/o Police Line Karli Thana & Tah. Geedam, Distt. South Bastar Dantewada (CG)

---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through PS Sukma, Dist. Sukma (CG)

....Non-applicant

For Applicant	:	Mr. Vikas Shrivastava, Advocate
For Non-applicant	:	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

18.11.2021

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 27.7.2021 in connection with Crime No.63/2021 registered at Police Station Sukma, District Sukma (CG) for commission of offence punishable under Sections 363, 366 & 376 of the Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act, 2012, [Section 366-a, 376 of IPC; 3(a)/4 of POCSO Act & Section 3 (2) (v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989].
2. Case of the prosecution, in brief, is that on 20.7.2021 prosecutrix left her house in the night. Incident was reported to concerned police station by father of prosecutrix, based upon which FIR is registered for commission of offence punishable under Section 363 of IPC. During the course of investigation, prosecutrix was recovered from Raipur, her statement was recorded based on which applicant was arrested.
3. Mr. Vikas Shrivastava, learned counsel for applicant would submit that applicant has not committed any offence as alleged against him and he has been arrested on false and frivolous grounds. He submits that the prosecutrix has initially made allegation of commission of aforementioned offence only on account of pressure of her parents. Prosecutrix was examined before the trial Court on 20.9.2021, she did not support case of prosecution and therefore declared hostile. Copy of statement of

prosecutrix is filed as Annexure A-2. Applicant is in jail since 27.7.2021, hence he may be enlarged on regular bail.

4. Per contra, Mr. Vinod Tekam,, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that prosecutrix in her statement recorded under Sections 161 & 164 of CrPC has levelled allegation of making physical relations by applicant with her. However, upon putting specific query with regard to contents of Annexure A-2, which is deposition sheet of prosecutrix/victim, he submits that as appearing from Annexure A-2, prosecutrix has not supported case of prosecution.
5. Despite service of notice, neither prosecutrix nor her representative is present before this Court.
6. I have heard learned counsel for parties.
7. Taking into consideration facts and circumstances of case, nature of allegation, age of prosecutrix on the date of incident i.e. above 17 years, submission made by learned counsel for applicant that prosecutrix has not supported case of prosecution in her Court statement (Annexure A-2), without commenting anything on merits of the case, I am inclined to allow this bail application.
8. Accordingly, the application is allowed and it is directed that 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 trial Court concerned on the conditions that;
 - a) he shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) he shall not, in any manner, tamper with the prosecution witnesses.
 - c) If 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

roshan/-