

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7926 of 2021**

- Sumit Tandi @ Pramod, son of Shri Amardas Tandi, aged about 20 years, resident of village Madadih, P.S. Kharora, District Raipur (CG)

---- Applicant (In Jail)**Versus**

- State of Chhattisgarh, through Station House Officer, Police Station Vdihan Sabha, Raipur, District Raipur (CG)

....Non-applicant

For Applicant	:	Mr. B.L. Sahu, Advocate
For Non-applicant	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****22.11.2021**

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 16.7.2021 in connection with Crime No.187/21 registered at Police Station Vidhan Sabha, Raipur (CG) for commission of offence punishable under Sections 363, 366, 376 of IPC Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that on 13.6.2021 the prosecutrix ran away from her house and went to village Madadih. When prosecutrix did not return back to her house, father of prosecutrix lodged report in concerned police station on 15.6.2021 based upon which crime in question is registered against unknown person for commission of offence under Section 363 of IPC. During the course of investigation, on 15.7.2021 prosecutrix was recovered from the house of applicant, based upon which aforementioned crime is registered against applicant and he was arrested.
3. Mr. B.L. Sahu, learned counsel for applicant would submit that

applicant has not committed any offence as alleged against him. Prosecutrix in her examination before the trial Court has not stated that applicant has done any forcible act with her. It is prosecutrix who herself went to village Madadih, performed marriage with applicant stating herself to be major girl. Prosecutrix was examined before the trial Court on 9.9.2021 and she has not supported the prosecution case. Prosecutrix is also carrying pregnancy of about three months. Applicant is in jail since 16.7.2021, hence he may be granted regular bail.

4. Per contra, Ms. M. Asha, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that prosecutrix in her statement under Section 161 of CrPC levelled allegation against applicant. However upon putting specific query with regard to statement of prosecutrix under Section 164 CrPC, if any recorded, she submits that statement of prosecutrix under Section 164 CrPC is also recorded in which she has not supported case of prosecution. She submits that on the date of incident, prosecutrix was below 18 years of age, hence applicant is not entitled to bail.
5. Prosecutrix along with father is present before this Court through virtual mode from DLSA, Raipur. She submits that she is having no objection in grant of regular bail to applicant.
6. I have heard learned counsel for parties and perused the documents placed on record along with bail application particularly copy of deposition sheet of prosecutrix dated 9.9.2021 filed along with Covering Memo dated 16.11.2021.
7. Taking into consideration facts and circumstances of case, nature of allegations levelled against applicant; submission of learned counsel for applicant that prosecutrix has not supported case of prosecution before trial Court, without commenting anything on merits of case, I am inclined to allow this bail application.
8. Accordingly, 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 trial Court concerned on the conditions that;

- a) he shall appear before concerned trial Court regularly on each and every date unless exempted from appearance.
- a) he shall not, in any manner, tamper with prosecution witnesses.
- b) 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/-