

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8682 of 2020

- Manoj Kumar Bhuiya, S/o Ram Dular Bhuiya, Aged About 22 Years, R/o Village Marma, Outpost Dindo P.S. Trikunda, District-Balrampur, Ramanujganj(Chhattisgarh).

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Trikunda, District-Balrampur Ramanujganj (Chhattisgarh).

---- Respondent

For Applicant	:	Mr. Shakti Raj Sinha, Advocate.
For Respondent/State	:	Mr. Jitendra Shukla, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

03/02/2021

Heard.

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.59/2020 registered at Police Station Trikunda, District Balrampur, Ramanujganj (C.G.) for the offence punishable under Sections 354, 354(A), 376(2) (n), 306 of IPC and Sections 8 & 6 of the POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The incident has occurred on 11.6.2020 when the deceased committed suicide. Morgue was registered on 12.6.2020, on that date the only statement that was made by the witnesses was this, that the applicant had been molesting

the victim and subsequent to that the victim committed suicide. It was after the receipt of report of postmortem, the offence under Section 376 (2) (b) of IPC has been added against the applicant and charge-sheet has been filed. It is further submitted, that there is no evidence at all for prosecution of this applicant under Section 376 IPC. The forensic report does not lead to any conclusion against this applicant, therefore, it is prayed that he may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that there are eyewitnesses in this case, who have stated about the act of molestation by this applicant with the deceased, who then got instigated and committed suicide. The vaginal slides that were preserved in the postmortem, show presence of human spermatozoa, which indicates that the deceased was raped before she committed suicide. Hence, looking to this nature of prosecution against this applicant, he is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per prosecution case, It is submitted that on 11.6.2020 deceased/ prosecutrix had been to the well in the agriculture field for washing and taking bath. It is alleged that this applicant arrived on the spot and started molesting the minor victim. Subsequent to which, she committed suicide. Vaginal slides that were preserved in the postmortem examination, were examined by the FSL and it was reported that human spermatozoa was found on the slides and on that basis the offence under Section 376 of IPC has been added.

6. Considered on the submissions. The FIR that was lodged by the father of deceased on 13.8.2020 was registered for commission of offences under Sections 354, 354A and 306 of IPC. Ku. Sushila, eyewitness of this case, stated that the applicant was forcefully molesting the minor deceased prosecutrix, seeing which she ran and informed about the incident to her parents. She and her parents i.e. complainant Sampuran and Muniya, arrived on the spot and saw the deceased hanging from a rope. The deceased was taken down, but by that time she had expired. There is some statement that the deceased and the applicant were having some kind of intimacy regarding which the parents of deceased had objection. Apart from that, there is no other evidence of any witness regarding the commission of offence of rape with the minor prosecutrix. It is only the FSL report on which prosecution of the applicant under Section 376 IPC is based. After due consideration on all the facts and circumstances, I feel inclined to allow the bail application of this applicant.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge