

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 8801 of 2020**

Amrit Tirky, S/o. Kuwar Sai, aged about 45 years, R/o. Caste Uranw, Village Tejpur, Chowki Rairumakhurd Tahsil Dharamjaigarh, District Raigarh Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Police Station Kapu, District -Raigarh, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Sanjay Agrawal, Advocate
For Respondent/State	: Mr. Smita Jha, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**11/01/2021**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.50/2020, registered at Police Station –Kapu, District – Raigarh (C.G.) for the offence punishable under Section 376 (D), 376 (3) of the Indian Penal Code and Section 4, 5 (1) & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix named the Munna Pando and Sargujiya as a person, who had ravished her in her statement under Section 161 of Cr.P.C. But subsequently, she denied the same in her statement under Section 164 of Cr.P.C. on 06.08.2020 and in later on development second statement under Section 164 of Cr.P.C. of the prosecutrix was

recorded on 22.09.2020, in which, she again exonerated Munna Pando and Sargujiya and for the first time, this applicant was implicated as the person, who had ravished her. This allegation made is totally false and not supported by the medical report, which shows that hymen of the prosecutrix was intact and no injury was found on her body. Hence, it is prayed that the applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that prosecutrix was minor and that she has made clear allegation against this applicant in her statement, therefore, this applicant is not entitled for grant of bail.
4. Complainant Firtu Ram is present before this Court on notice. He has stated that he has no objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. The case of the prosecution is this that the minor prosecutrix aged about 14 years went missing on 19.07.2020, she came back by herself on 02.08.2020 and then her statement was recorded by police in which she named the other persons namely Munna Pando and Sargujiya. In the later on development in the second statement under Section 164 of Cr.P.C., the prosecutrix has named this applicant as the person, who exploited her sexually. Hence, this case.
7. Considered on the submissions and the facts present in this case. There appears to be gradual development in which firstly other persons were implicated and lastly this applicant has been implicated.

The submissions regarding medical report of the prosecutrix can not be ignored and apart from that there is statement of no objection made by the complainant side, therefore, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. 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 concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram