

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8657 of 2020

- Subham Prasad, S/o Shri Ramesh Prasad, Aged About 19 Years, R/o Bapu Nagar, Zone 2, Near Aman Kirana, Khursipar, Police Station Khursipar, Tahsil and District-Durg, Chhattisgarh.

---- Applicant

Versus

- The State of Chhattisgarh Through Police Station Khursipar, Tahsil and District-Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Hemant Kumar Agrawal, Advocate.

For Respondent/State : Mr. Adil Minhaj, Govt. Advocate.

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

24/02/2021

Heard.

1. This is the 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.497/2020 registered at Police-Station-Khursipar-Bhilai, Distirct-Durg(C.G.) for the offence punishable under Sections 363, 376(3), 354, 342, 506, 34 of IPC and Section 4, 8 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. It is submitted that there is no allegation of rape against this applicant in this case. The juvenile offender, who is alleged to have raped the minor victim has

been granted bail by this Court in CRR No.700 of 2020 & 698 of 2020 vide order dated 17.12.2020. Another accused Ashraf Ali has also been granted bail in this case and the other case registered against him. The role of the applicant in this case is similar to that of Ashraf Ali, therefore, it is prayed that this applicant may be granted bail on ground of parity. He is in jail since 19.7.2020. Hence, the application be allowed.

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 according to the allegations in the statement of the victim and other witnesses it appears to be a case of gang rape, for which applicant is equally responsible. The juvenile offender has been given benefit of bail under the provision of Juvenile Justice(Care and Protection) Act, whereas the role of the co-accused Ashraf Ali has been different as there was no offence of rape was alleged against him in this case and in another case registered against him, therefore, he is not entitled for grant of bail.
4. Notice was issued to the complainant which was returned served on 20.1.2021, but there was no appearance and no representation.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that the minor prosecutrix and her friend both were taking walk. This applicant, the juvenile offender and the co-accused forced her to take ride on the motorcycle. The victim of this case and her friend were taken to a place by the accused persons, which was house of the juvenile offender. It is alleged, that the juvenile offender Rohit Kumar raped the minor victim.

7. Considered on the submissions. As it is appears, that there is no allegation of rape particularly against this applicant in this case. Further, co-accused Ashraf Ali has been granted regular bail on similar ground, hence, I feel inclined to allow the application of this applicant.
8. 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