

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.8236 of 2021

- Jeevan @ Chhotu Sahu @ Jeevan Lal Sahu, S/o Tilakram Sahu, Aged About 23 Years, R/o Village Parsada Chakwe, P.S. Kharora, District Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Kharora, District Raipur, Chhattisgarh

---- Respondent

For Applicant
For Respondent

Mr. Praveen Dhurandhar, Advocate
Mr. Shreshth Gupta, PL

Hon'ble Justice Shri Parth Prateem Sahu

Order On Board

02/12/2021

1. Applicant has filed this first bail application under Section 439 of CrPC for grant of regular bail, as he has been arrested in connection with Crime No.304/2021, registered at Police Station Kharora, District Raipur (C.G.) for the offence punishable under Sections 363, 366, 376 (2) (n) of IPC and Section 6 of POCSO Act.
2. Prosecutrix along with her father is present before this Court in pursuance of notice issued under Section 439 (1A) of CrPC.
3. Case of prosecution is that applicant took prosecutrix on 15.07.2021 and thereafter visited several places till 21.07.2021. During their stay at several places, applicant committed sexual intercourse with her. When prosecutrix reached her house, she went to police station

along with her father on 21.07.2021 and lodged report making allegation of abducting and committing sexual intercourse with her. Based upon written report, aforementioned crime was registered against applicant and he was arrested on 22.07.2021.

4. Mr. Dhurandhar, learned counsel for the applicant, would submit that applicant has been falsely implicated in this case. Prosecutrix herself joined the company of applicant. Applicant has not committed sexual intercourse with her. There is no material available in the case diary to prove that it is the applicant who has committed sexual intercourse with her. In the MLC also, doctor has opined that no definite opinion can be given of sexual intercourse with prosecutrix. He would further submit that there is no radiological examination of prosecutrix to prove her age to be below 18 years, hence applicant may be enlarged on regular bail.
5. Mr. Gupta, learned State counsel, would oppose the submission of learned counsel for the applicant and would submit that as per material collected by Police during the course of investigation i.e. copy of mark sheet, age of prosecutrix on the date of incident was 16 years and 6 months. Specific allegations have been levelled by prosecutrix against applicant in her statement recorded under Sections 161 & 164 of CrPC of abducting and also committing sexual intercourse with her. He would further submit that in the statement of prosecutrix, it has come that when prosecutrix was in the company of applicant, she came to know that applicant was married prior to the date of incident, which was not disclosed to her, hence applicant is not entitled for benefit of regular bail.
6. Prosecutrix is present in person before this Court along with her

father. She submits that she is having no objection in granting bail to the applicant.

7. I have heard learned counsel for the parties.
8. Taking into consideration the facts and circumstances of the case, nature of allegation, statement of prosecutrix recorded under Section 164 of CrPC wherein she has made specific allegation of commission of crime against applicant, age of prosecutrix to be 16 years and 6 months as per mark sheet, I do not consider the present to be a fit case to release the applicant on bail.
9. Accordingly, the bail application is dismissed.

Sd/-
Parth Prateem Sahu
Judge

Nirala