

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8237 of 2021**

Jitendra Kumar Gota, S/o Shri Tulsiram Gota, Aged About 19 Years, R/o Village Chikhali Nichepara, Thana Amabeda, Civil And Revenue District North Baster Kanker, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station Amabeda, District North Baster Kanker, Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Sunil Sahu, Advocate

For Non-applicant/State : Mr. Raghvendra Verma, G.A.

Prosecutrix and her father is present through virtual mode from District Legal Services Authority, Kanker.

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**26.11.2021**

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 12.02.2021 in connection with Crime No.02 of 2021 registered at Police Station Amabeda, District North Bastar Kanker (C.G.) for commission of offence punishable under Sections 376(3), 313, 450 of IPC and Section 4, 6 of the Protection of Children from Sexual Offences, Act, 2012.
2. Case of the prosecution, in brief, is that father of prosecutrix lodged a report on 06.02.2021 making allegations against the applicant that applicant has committed sexual intercourse with his

daughter and continued for last about 4 years, due to which, prosecutrix conceived. Applicant administered her medicine, due to which, she suffered medical ailment and she was admitted in Amamoda hospital. She took treatment in the hospital from 01.02.2021 to 03.02.2021. Based on the report, aforementioned crime was registered against the applicant and he was arrested.

3. Mr. Sunil Sahu, learned counsel for the applicant would submit that false allegations have been levelled against the applicant and applicant has not committed any offence as alleged against him. Prosecutrix stated her date of birth to be 15.05.2005, but her date of birth was of the year 2001. He further submits that prosecutrix and her father was examined before the trial Court on 18.08.2021 and 21.09.2021, respectively, they have not supported the case of the prosecution and turned hostile. They have denied any incident as alleged in the FIR. Copy of deposition-sheets are filed as Annexure A/2. Hence, applicant may be enlarged on regular bail.
4. Mr. Raghvendra Verma, learned State Counsel opposing the submissions made by learned counsel for the applicant, would submit that in the FIR lodged by father as well as in the statement of prosecutrix recorded under Section 161 and 164 of Cr.P.C, specific allegations of commission of sexual intercourse by applicant since last 4 years as well as administering of some medicine for aborting pregnancy have been levelled. As per birth certificate and school progress report collected by the Police during the course of investigation, date of birth of prosecutrix is mentioned as 15.05.2005, as such, on the date of first incident,

prosecutrix was minor i.e. less than 18 years of age, hence, applicant is not entitled for his release on bail. However, he does not dispute the submission of learned counsel for the applicant that prosecutrix and her father have not supported the case of prosecution.

5. I have heard learned counsel for the parties.
6. Prosecutrix is present through virtual mode from District Legal Services Authority, Kanker. She submits that she is having no objection in grant of bail to the applicant.
7. Taking into consideration the facts and circumstances of the case, nature of allegations, period of pretrial detention of applicant and submission made by learned counsel for the applicant based on Annexure A/2 that prosecutrix and her father have not supported the case of prosecution, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
8. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If the 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

Yogesh