

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 8528 of 2021

Rahul Kumar Goyal S/o Rohit Kumar Goyal Aged About 22 Years R/o Manjholi, P.S. Panda Tarai, District Kabirdham, Presently Residing At R/o House Of Jeevan Nishad, Chandani Chowk, Saddu, P.S. Vidhan Sabha, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Officer In Charge Of P.S. Vidhan Sabha, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Applicant : Shri Pallav Mishra, Advocate

For Non-applicant : Ms. M. Asha, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

06/12/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.309/2021 registered at Police Station- Vidhan Sabha, District- Raipur (C.G.) for the offence punishable under Sections 376, 506, 313 IPC and Sections 4, 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of prosecution is that on 3.7.2021, applicant committed sexual intercourse with the prosecutrix for the first time and thereafter on two-three more occasions. Due to physical relation between applicant

and prosecutrix, she conceived. When periods stopped, she intimated this fact to her mother and also to the applicant, upon which, applicant administered some medicines to her, due to which, her pregnancy got aborted. Incident was reported by father of the prosecutrix to the concerned police station on 3.9.2021, based upon which, aforementioned crime was registered and applicant was arrested.

3. Shri Pallav Mishra, learned counsel for the applicant would submit that prosecutrix is more than 17 years of age and from the contents of statement of the prosecutrix recorded under Section 161 and 164 of Cr.P.C. itself, it is apparent that she was a consenting party, hence no offence would be made out. He further submits that applicant assured the parents of prosecutrix that he will perform marriage with the prosecutrix after her attaining majority. He also submits that parents of the prosecutrix have also sworn affidavit before Notary which was filed before the trial Court wherein they have stated that they have no objection in grant of bail to the applicant. Hence, the applicant may be released on bail.
4. Ms. M. Asha, learned counsel for the State opposes the submissions of learned counsel for the applicant and would submit that the applicant committed sexual intercourse with the prosecutrix when she was minor, hence, there is prima facie material available against the applicant of commission of aforementioned crime. She also read over the contents of the statement of prosecutrix recorded under Sections 161 & 164 of Cr.P.C. wherein the prosecutrix has stated that the

applicant has established physical relationship with her.

5. Prosecutrix is present before this Court through virtual mode along with her father and submits that she is having no objection in grant of bail to the applicant.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegations, the fact that the applicant who is aged 22 years has committed sexual intercourse with the prosecutrix when she was minor and even today, prosecutrix is a minor, I do not find present to be a fit case for grant of bail to the applicant.
8. The application is accordingly rejected.

Sd/-
(Parth Prateem Sahu)
Judge