

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1381 of 2018

- Akshay Kumar S/o Upendra Kumar Sahu, Aged About 36 Years, R/o.- Arjunpara (Sanamanga), Police Station And Tahsil Aali, District- Kendrapada (Orissa), Orissa

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Panduka, Civil And Revenue District- Gariyaband, Chhattisgarh, District : Gariyabandh, Chhattisgarh

---- Non-applicant

For Applicant – Shri S.K. Agrawal, Advocate.

For Non-applicant/State – Shri Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-04-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 24-09-2017 in connection with Crime No.81/2017 registered at P.S. - Panduka, District Gariyaband, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 4, 6 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 24-09-2017. Charge sheet has been filed after completion of the investigation. No case is made out against this applicant. It is further submitted that according to the statement given by the prosecutrix under Section 164 of the Cr.P.C., it is clear that no statement has been made that this applicant has committed sexual intercourse with the prosecutrix. Hence, it is prayed that the applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, the minor prosecutrix of age below 18 years was abducted by this applicant and thereafter she was raped by him on the pretext of marrying her. A missing report was lodged by mother of the prosecutrix and then the prosecutrix was recovered from the custody of this applicant. Hence, this case.
6. Perused contents of the case diary and also perused certified copy of the statement of the prosecutrix under Section 164 of the Cr.P.C., in which, she has although admitted going along with the applicant and marrying him, but there is no clear statement about having sexual intercourse. Hence, looking to the nature of the evidence that is proposed against this applicant for his prosecution, I am of this view that this applicant should be granted regular bail.
7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge