

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6858 of 2017

- Dwarika @ Daniel S/o Late Sampat Ram Chhedaiya, Aged About 20 Years, R/o Village Siltara, Police Station Kanker, District North Bastar Kanker, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Mainpur, District Gariyaband, Chhattisgarh

---- Non-applicant

For Applicant – Shri C.R. Sahu, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-01-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicant for regular bail. The applicant has been arrested on 31-08-2017 in connection with Crime No.39/2016 registered at P.S. Mainpur, District Gariyaband, C.G. for the offence under Section 363, 366, 376(2)(a) of the IPC and Section 6 of 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 age of the prosecutrix had been more than 18 years on the date of incident and she had been a consenting party, who has on her own accompanied the applicant, and both of them have married and were leading married life when the false report was lodged by mother of the prosecutrix, on account of which the applicant has been arrested and detained. Hence, it is prayed that the applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application and submission made. It is submitted that as per the school register, the date of birth of the prosecutrix is 02-07-1999, hence, she was minor on the date of incident, therefore, the statement of consent is totally immaterial. Hence, the

applicant is not entitled for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.

5. Facts of the case are these, that the prosecutrix, a minor, went missing on 09-04-2016. The missing report and FIR alleging abduction of the prosecutrix was lodged by the mother of the prosecutrix on 30-05-2016. Police recovered the prosecutrix from the custody of the applicant on 28-08-2017. Thereafter, arrest of the applicant had been made.

6. As informed, the prosecutrix has given birth a child on 15-05-2017. Certified copy of the affidavits filed by the prosecutrix and her mother have been attached, in which they have mentioned no objection on granting bail to the applicant.

6. Considered on the submissions made and contents of the case diary.

7. Taking into consideration all the material on record of the prosecution case, I am of this view that this is a fit case where the applicant should be granted regular bail.

8. Consequently, the application (MCRC No.6858/2017) filed under Section 439 of the Cr.P.C. by the applicant 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge