

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2885 of 2018

- Omprakash Kaiwartya S/o Firatram Kaiwartya, Aged About 20 Years, Caste- Kevat, R/o- Amodi, Thana and Police Station Gidhori, District- Baloda Bazar, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Police Station House Officer, P.S. Kasdol District- Baloda Bazar Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

----Non-applicant

For Applicant – Shri Suresh Kumar Verma and Shri Deepak Jain, Advocates.
For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-06-2018

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 06-04-2018 in connection with Crime No.114/2018 registered at P.S. - Kasdol District- Baloda Bazar Bhatapara, Chhattisgarh for the offence under Section 363, 366A of the IPC and under Section 17 of POCSO Act, 2012.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in custody since 06-04-2018. Charge sheet has been filed after completion of the investigation. No case is made out against this applicant as the prosecutrix in this case was of age above 18 years on the date of incident and she was a consenting party regarding the relationship of the applicant and 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 submitting that the prosecutrix was minor on the date of incident and according

to the statement given by her under Section 161, 164 of the Cr.P.C., no case is made out for grant of bail.

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

5. According to the prosecution case, the prosecutrix of the age just below 18 years was abducted by this applicant on 07-03-2018. A named FIR was lodged by the father of the prosecutrix on the same day. The prosecutrix was recovered on 12-03-2018 from the custody of this applicant from Allahabad, then, on the basis of statement given by her offences have been registered against this applicant.

6. Age of the prosecutrix mentioned in the case diary is challenged by the applicant side. After due consideration on the material present in the case diary and looking to the fact that charge sheet has been filed and trial of the case is likely to take some time before its conclusion, I am inclined to grant regular bail to the applicant.

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