

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7723 of 2017

- Sadik Khan S/o Sahjad Khan, Aged About 45 Years, R/o Mojjampara Keshkal, P.S. Keshkal, District Kondagaon, Chhattisgarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Seetapur, District Surguja, Chhattisgarh, Chhattisgarh

---- Non-applicant

For Applicant – Mr. Sandeep Dubey, Advocate.

For Non-applicant/State – Ms. K. Tripti Rao, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-02-2018

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 30-01-2017 in connection with Crime No.11/2017 registered at P.S. Seetapur, District Surguja, Chhattisgarh for the offence under Section 363, 366, 376(2)(ढ) of the IPC and Section 5ढ/6 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant that the applicant is innocent and has been falsely implicated in this case. According to the material in the case, the applicant and the prosecutrix were having relationship 4 months prior to the date of incident which was based on the consent. The prosecutrix being of age 18 years, was capable of giving consent, hence, no case is made out against this applicant. He is in jail since 30-01-2017 and he is ready to abide by all the conditions to be imposed on grant of bail. 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. It is submitted that according to the entry in the school register age of the prosecutrix was below 18 years on the date of incident. Hence, in

these circumstances, consent is immaterial. No case is made out for grant of bail, therefore, the applicant is not entitled for grant of bail.

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

5. As the case is, the applicant was residing in the house of the prosecutrix prior to the date of incident and after alluring the prosecutrix he was having sexual intercourse with her on various occasions. When the parents of the prosecutrix came to know about this, they drove out the applicant from their house, but on 17-01-2017 the applicant on the pretext of marrying the prosecutrix abducted her and after keeping her in several places he established physical relationship with her. According to the school register, date of birth of the prosecutrix is 01-07-1999 and on that basis she was minor on the date of incident. Hence, this case.

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

7. Considered on the entire material present in the case diary. As the trial against this applicant has made no progress and the applicant is in jail since more than 1 year and that the applicant is resident of District Kondagaon, there is no likelihood of his absconding, hence, for these reasons, I am of this view that the applicant should be benefited with grant of bail during pendency of the trial against him.

8. 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.

9. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge