

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3959 of 2019

Sheikh Jumman, S/o. Sheikh Fareed, Aged About 20 Years, R/o. Near Vardhaman School, Krishna Nagar, Police Station- Tikrapara, District- Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station- Tikrapara, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Devershi Thakur, Advocate
For Respondent/State	: Mr. Aaditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/08/2019

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.151/2019, registered at Police Station – Tikrapara, District – Raipur (C.G.) for the offence punishable under Section 363, 366, 376 (3) of the Indian Penal Code and Section 4 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 02.03.2019. No case is made out against the applicant according to the statement given by the prosecutrix under Section 164

of Cr.P.C. in which she has clearly stated that there had been no case of sexual exploitation with her by this applicant. Further the date of birth of the prosecutrix is also disputed because according to the copy of the ADHAR Card filed as Annexure A-2, the date of birth of the prosecutrix appears to be 22.04.2001, therefore, she was about 17 years and 11 months old at the time of incident. Further prosecutrix has herself given an application to the Superintendent of Police on 05.04.2019 stating that no incident has happened with her and she does not want to prosecute this applicant. Hence, under these circumstances, it is prayed that the applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that according to the entry in the school register, the age of the prosecutrix is 15 years and six months on the date of incident. On an earlier date, the applicant had exploited the prosecutrix sexually thereafter, the applicant abducted her, hence, for this reason, the applicant is not entitled for grant of bail.
4. Complainant – Ramvati is present before this Court. She has objected to the application and submitted that the applicant should not be granted bail.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. According to the prosecution case, this applicant abducted the minor prosecutrix of age about 15 years and took her to place in Odisha. It is alleged that on earlier date, the applicant had exploited the prosecutrix

sexually before taking her to Odisha. Hence, this case.

7. Considered on the submissions made and the contents of the case diary. Perused the diary statement of the prosecutrix and also her statement under Section 164 Cr.P.C., which is contradictory to the earlier statement, therefore, under these circumstances, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge