

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5056 of 2019**

Subran Chouhan S/o Lakhesingh Aged About 24 Years R/o Village Sonamundi, Thana Basna, District Mahasamund Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Telibandha, District Raipur Chhattisgarh.

---- Respondent

For the Applicant : Shri Vikash Pradhan, Advocate.
For the Respondent/State : Shri Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.09.2019**

Heard.

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.293 of 2019, registered at Police Station – Telibandha, District – Raipur, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 17.6.2019 and has been falsely implicated in this case. The applicant has not committed any offence. The age of the prosecutrix was above 18 years on the date of incident and she was a consenting party. Further, the prosecutrix herself stated in the statement under Section 164 of the Cr.P.C.

that the applicant and the prosecutrix both have married. Hence, it is prayed that the applicant be enlarged on 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 the prosecutrix was minor on the date of incident and her consent is immaterial. Hence, no case is made out for grant of regular bail to the applicant.

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

5. According to prosecution case, the applicant abducted the minor prosecutrix and took her to a nearby village whereby keeping her in his custody, he exploited her sexually which amounts to commission of offence of rape.

6. On perusal of the statement of the prosecutrix under Section 164 of the Cr.P.C. and also considering the fact that the only proof regarding the age of the prosecutrix is school entry register, therefore, I feel inclined to grant bail to the applicant in this case.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi