

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5110 of 2019

- Vikash Bhagat S/o Balku Bhagat, Aged About 20 Years, R/o Village Ekamba, Tahsil Bagicha, P.S. Sanna, District Jashpur, Chhattisgarh, District : Jashpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Sanna, District Jashpur, Chhattisgarh, District : Jashpur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Pawan Shrivastava, Advocate.

For Non-applicant/State – Shri Priyanshu Gupta, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

03-09-2019

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 27-06-2019 in connection with Crime No.37/2019 registered at Police Station – Sanna, District Jashpur, Chhattisgarh for the offence under Section 363, 366, 376 (2) (n) of the IPC and 6 of POCSO Act.
2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in jail since 27-06-2019. No case is made out against the applicant. The prosecutrix in this case is of age above 18 years. She had been a consenting party throughout, which is reflected from her statement under Section 164 of the Cr.P.C. The only evidence regarding her age is entry in the school register which is not a conclusive proof of age. Therefore, it is prayed that the application may be allowed.
3. Learned counsel for the State/non-applicant opposes the application.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, this applicant on pretext of marrying

the minor prosecutrix has established physical relation with her on number of occasions, thereafter, the FIR has been lodged.

6. In the statement of the prosecutrix under Section 164 of the Cr.P.C. she though states that she had consensually established physical relation with the applicant, but, she has also made statement that her age was below 18 years, however, looking to the ground taken in defence by the applicant, it is found that he has a defensible case. Therefore, I feel inclined to allow this application.

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