

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2096 of 2020

- Akhil Patel S/o Ramesh Patel, Aged About 20 Years, R/o Azad Chowk Patelpara, Kumhari, Police Station Kumhari, Tahsil Dhamdha, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---Applicant

Versus

- The State of Chhattisgarh, Through The Police Station Kumhari, Civil and Revenue District Durg Chhattisgarh., District : Durg, Chhattisgarh

----Non-applicant

For Applicant – Shri Punit Ruparel, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-08-2020

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 12-01-2020 in connection with Crime No.103/2019 registered at Police Station - Kumhari, District Durg, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4 and 6 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The prosecutrix was not a minor on the date of incident. She had willingly accompanied, left her parents' house and accompanied the applicant to reside and cohabit with him on consensual basis. The prosecutrix and the applicant both have performed marriage in Arya Samaj temple on 06-01-2020 and thereafter when she herself visited the police station to give this information the applicant was arrested in the case. The prosecutrix has made clear statement in favour of the applicant under Section 164 of the Cr.P.C. Therefore, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

and submits that according to the proof of entry in the school register the prosecutrix is clearly a minor and further her admission about residing and having physical relation with the applicant itself amounts to commission of offence of rape. Therefore, no case is made out for grant of bail.

4. Heard learned counsel for the parties and perused the documents.

5. It is alleged that the applicant abducted the minor prosecutrix of age below 18 years and then by keeping her in his custody he has performed a sham marriage with her for the purposes of exploiting her sexually, thus, he has committed offence of rape with the minor girl.

6. Considered on the submissions and also perused the statement of the prosecutrix given before the Magistrate under Section 164 of the Cr.P.C. The ground of minority has been disputed by the applicant side. Therefore, considering on these facts and circumstances, 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