

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2134 of 2020

- Kamlesh Pal, S/o Govind Pal Aged About 22 Years R/o Cluster 13, Room No. 5 And 6 , Kanshiram Nagar, Police Station Telibandha, Raipur , District Raipur Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicant	: Mr. Dharmesh Srivastava, Advocate.
For State/respondent	: Mr. D.P. Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/06/2020

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.309/2019 registered at Police -Station-Telibandha, District-Raipur(C.G.) for the offence punishable under Section 363, 366, 376(2)(n) of IPC and Section 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. No case is made out against the applicant. The applicant and the prosecutrix both had an affair and they lawfully performed a marriage in Arya Samaj Temple on 22.6.2019 and thereafter because of some dispute, the prosecutrix has

lodged this false FIR against the applicant. The age of prosecutrix according to her Aadhar Card is 22.2.2000. The affidavit and the certificate of marriage given by Arya Samaj Mandir has been filed along with the application which shows that the prosecutrix was a major when the marriage was performed, therefore, it is it is prayed that he may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that according to the certificate issued by Registrar(birth & death) the date of birth of prosecutrix is 22.12.2001, therefore, this shows that she was minor on the date of incident that is 22.6.2019, hence, any consent given by her or the marriage performed both are illegal, therefore, no case is made out for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the case of prosecution, this applicant expressed for love with minor prosecutrix and then by inducement and by threat, he abducted the minor prosecutrix and took her to Nagpur, where he keep her in his custody and continuously committed the offence of rape with her. Father of prosecutrix lodged a missing report, thereafter the prosecutrix was recovered from the possession of this applicant.
6. Considering on the entire material present in the case diary and also perused the marriage certified given by Arya Samaj Temple in which there is mention that the prosecutrix was major on the date of marriage, therefore, after over all consideration, I feel inclined to allow the bail application of this applicant.

7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha