

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3161 of 2020

- Sanjay Kaushik S/o Makhan Kaushik, Aged About 24 Years, R/o Village- Gauchhiya, Out Post- Bazar Charbhatha, Police Station- Kawardha, District- Kabirdham, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station- Kawardha, District- Kabirdham, Chhattisgarh

----Non-applicant

For Applicant – Shri Dharmesh Srivastava, Advocate.

For Non-applicant/State – Shri Raveesh Verma, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

30-06-2020

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 in connection with Crime No.03/2020 registered at Police Station – Kawardha, District- Kabirdham, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 5, 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 is not minor. The applicant and the prosecutrix both had an affair and no offence has been committed. The strange story of this case is this, that earlier a Crime No. 282/2019 was registered against the applicant for commission of offence under Section 363, 366, 376 of the IPC and Section 3, 4 of POCSO Act for abducting the same prosecutrix who is also the prosecutrix in this case. The applicant was granted bail by this High Court in MCRC No.5544/2019 vide order dated 11-11-2019. Thereafter, because of the affair the prosecutrix again left with the applicant leaving her parental house, because of which a repeat FIR has been lodged and the applicant is under detention for the same. Therefore, it is prayed that

the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix being of age below 16 years any consent given by her is immaterial, therefore, the application may be rejected.

4. Notice issued to the complainant has been served, but there is no appearance or representation.

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

6. It is alleged that this applicant has abducted and sexually exploited the minor prosecutrix who is of age below 16 years after performing a sham marriage with her.

7. Considering the peculiar facts of this case that the applicant is being prosecuted for abducting the same prosecutrix twice and in similar matter which was earlier registered against him he was granted bail by this Court, therefore, I feel inclined to grant bail to the applicant.

8. 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge