

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3408 of 2020

Budhelal Bharti, S/o Vishram Bharti, Aged About 23 Years, R/o Near Jai Stambh, Camp 2, Santoshi Para, Police Station Chawni, Bhilai, Tahsil and District- Durg (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through- The Sub Divisional Magistrate, District- Durg (C.G.)

--- Respondent

For Applicant	:	Mr. Rudra Nath Mukherjee, Advocate.
For State/ Respondent	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21/07/2020

1. This is the second 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. 242/2017, registered at Police Station- Chawni, Bhilai, District- Durg (C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Earlier, first bail application MCRC No. 5024/2018 was dismissed as withdrawn on 07.08.2018 and liberty was given to the applicant to revive the same after examination of the prosecutrix before the court below.

3. Learned counsel for the applicant submits that the applicant is in jail since 26.06.2017 and has been falsely implicated in this case. The prosecutrix has been examined before the trial court and she has made statement that the applicant has performed marriage with her, therefore, any relation subsequent to that is not an offence, Hence, it is prayed that this applicant be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application submitting that the prosecutrix was minor of age about 14 years on the date of incident and she has clearly stated in her statement in investigation and before the court below that the applicant has forcibly abducted and raped her, therefore, no case is made out for grant of bail to the applicant. Hence, the application for grant of bail may be rejected.
5. On notice, the informant/complainant namely Smt. Saroj Bai is present in the High Court of Chhattisgarh through Help Desk and she has submitted that she has objection in granting bail to this applicant.
6. Heard counsel for both the parties and perused the records.
7. As per case of the prosecution, it is alleged that this applicant abducted the minor prosecutrix of age about 14 years and then, forcibly performed marriage with her and also made physical relation with her, which amounts to commission of rape.
8. Considered on the submission and also the facts and circumstances of this case. As there is objection made by the complainant side and the prosecutrix has supported case of the

prosecution, therefore, I do not feel inclined to grant bail to the applicant in this case.

9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is hereby rejected.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Arun