

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3454 of 2020

- Shailendra Kumar S/o Shani Kumar Aged About 20 Years R/o Navagaon, P.S. Seepat, Tahsil Masturi, District- Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Baloda, District Janjgir-Champa, Chhattisgarh

---- Non-applicant

For Applicant : Mr. N.K. Chatterjee, Advocate.

For Non-applicant/State : Mr. Sudeep Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

15-06-2020

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 on 09.04.2020 in connection with Crime No.77/2020, registered at Police Station- Baloda, District- Janjgir-Champa, C.G. for offence punishable under Sections 363, 366, 376 of I.P.C. and Section 6 of POCSO Act.
2. It is submitted by learned counsel for the applicant that the applicant is in jail since 09.04.2020 and has been falsely implicated in this case. The prosecutrix was not a minor on the date of incident. The proof of age relied upon by the prosecution is the entry in school register, which is not a conclusive proof and the applicant intends to challenge the same in the trial, otherwise the prosecutrix had been a consenting party. Hence, it is prayed that applicant be granted bail.
3. Learned counsel for the State/non-applicant formally opposes the

application and submits that according to the entry in school register, the date of birth of prosecutrix is 01.07.2003. Therefore, her being a minor girl, any consent given by her is immaterial and the applicant is not entitled for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.
5. As per the prosecution case, the minor prosecutrix went missing on 04.04.2020 regarding which a missing report was lodged by her father mentioning his suspicion against the applicant as the person who has abducted her. After the recovery of the prosecutrix on the basis of statement given by her, the offence of abduction and rape etc. have been registered against the applicant.
6. Considered on the facts of this case, according to the applicant side, the age of the prosecutrix is debatable and also looking to the other circumstances of the present case, I am of this view that it is proper to grant bail to the applicant at this stage.
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