

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 3510 of 2020**

Rajesh Kumar Ghilendra @ Raju, S/o. Aghanuram Ghilendra, aged about 19 years, R/o. Village - Koba, Police Station - Dondi - Lohara, District - Balod, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through - S.H.O - Dondi - Lohara, District - Balod, Chhattisgarh.

---- Respondent

For Applicant : Mr. Hemant Gupta, Advocate

For Respondent/State : Mr. Gurudev I. Sharan, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**17/11/2020**

1. This is the first 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.68/2020, registered at Police Station – Dondi Lohara, District – Balod (C.G.) for the offence punishable under Section 366, 376 (2) (अ) of the Indian Penal Code and Section 4, 5-ए, 6 of the Protection of Children from Sexual Offences 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 according to the material present in the case diary. The prosecutrix was not minor on the date of incident and there had been an affair between the applicant and the prosecutrix and it was the scheme of the prosecutrix herself to elope, in which the applicant participated, therefore, no offence has been committed by him. Hence, it is prayed that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the age of the prosecutrix according to the prosecution is only 15 years and 7 months, therefore, any consent or willingness on her part is of no consequence. Therefore, it is prayed that the application be rejected.
4. Notice was issued to the complainant in compliance of Section 439(1A) of Cr.P.C., which has been returned served but there had been no appearance or representation on her behalf on given date.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix of age below 16 years on pretext of marrying her and then by keeping her in his custody in different places, he has exploited her sexually, regarding which the offence have been registered.
7. Considered on the submissions, the facts and circumstances of the case and also the statement that has been given by the prosecutrix in the investigation. In the ossification test report, the Radiologist has

opined that the age of the prosecutrix was 17 to 19 years, hence for this reason and also looking to the other circumstances, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram