

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3651 of 2020

- Devnath Satnami, S/o Pilaaram, Aged About 22 Years, R/o Village Bhalesar (Bhtakapara) Police Station Beltukri, District- Nuvapada, Orissa.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Khallari, District Mahasamund Chhattisgarh.

---- Respondent/Non-applicant

For Applicant : Mr. R.K. Rathi, Advocate.

For State/respondent : Mr. D.P. Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/08/2020

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.172/2019 registered at Police Station- Khallari, District- Mahasamund (C.G.) for the offence punishable under Section 363, 366, 376 (2)(dha) of the IPC and Section 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The applicant is in jail since 22.10.2019. No case is made out against the applicant. The prosecutrix was not minor on the date of incident. The only proof regarding the minority of the prosecutrix is entry in the school register which is not a conclusive proof. It had been a case of affair between applicant and prosecutrix, in which, she willingly accompanied with the

applicant and submitted for physical relation, hence, 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 the age of prosecutrix was below 16 years, therefore, any consent or willingness on her part is immaterial, hence, application be rejected.
4. Notice was issued to the complainant in compliance of Section 439(1A) of CrPC. The notice was served upon the complainant for a fixed dated 22-07-2020, but on that date there was no appearance and representation on behalf of the complainant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, it is alleged that this applicant on pretext of marriage, had abducted the minor prosecutrix and then established physical relation with her on a number of occasions, regarding which FIR has been lodged.
7. Considered on the submissions and also perused the copy of deposition of the prosecutrix filed by the applicant side, I feel inclined to allow the bail application of this applicant.
8. 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