

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 3863 of 2020**

Sumit Kumar Kurre, S/o. Fattulal Kurre, aged about 20 years, R/o. Village Kohka, Ward No. 9, Near Guru Ghasidas Nagar, Behind Middle School, Arya Nagar, Kohka, Bhilai, District Durg, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station Bori, District Durg, Chhattisgarh

---- Respondent

For Applicant	: Mr. Prasoon Agrawal, Advocate
For Respondent/State	: Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/08/2020**

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.153/2019, registered at Police Station – Bori, District Durg (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 4 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. The applicant intends to challenge the ground of minority of the prosecutrix, who was not minor on the date of incident

and it had been case of love affair between the applicant and prosecutrix. Prosecutrix has made contradictory statement in her statement under Section 161 of Cr.P.C. and under Section 164 of Cr.P.C., therefore, she is not a reliable witness. The applicant is in jail since 01.01.2020. Therefore, 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 in her statement under Section 164 of Cr.P.C., the prosecutrix has clearly alleged that she was forcibly raped by the applicant knowing well that she is minor. Therefore, the application be rejected.
4. Notice issued to the complainant has been returned served, but there is no appearance and no representation.
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 on 30.12.2019, the minor prosecutrix of age about 16 years was abducted and then by keeping her in his custody, the applicant raped her.
7. Considered on the submissions. Copy of the charge-sheet has been filed along with the bail application. Perused the statements given by the prosecutrix under Section 161 of Cr.P.C. and under Section 164 of Cr.P.C. according to which, the submission made by the applicant side appear to have some force, therefore, under these 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