

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3886 of 2020**

Rakesh Kumar Kewat S/o Late Rajju Lala Kewat Aged About 23 Years R/o Village Bharrapara Pendra, P.S. Pendra, District Bilaspur, (Present District Gaurella Pendra Marwahi) Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through P.S. Pendra, District Bilaspur, (Present District Gaurella Pendra Marwahi) Chhattisgarh.

---- Respondent

For the Applicant : Shri Rakesh Pandey, Advocate.
For the Respondent/State : Shri Vimlesh Vajpayee, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.08.2020**

Heard.

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.369 of 2019, registered at Police Station – Pendra, District – Bilaspur, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Sections 4 & 8 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 18.11.2019 and has been falsely implicated in this case. The prosecutrix in this case is not a minor although the prosecution is relying upon the certificate given by the Registrar Births and Deaths which shows date of birth as 13.11.2004, however, the prosecution itself has made seizure

of one school mark-sheet of the prosecutrix, which mentions her date of birth as 13.11.2001. The prosecutrix in this case has been examined before the trial Court and she has admitted about the date of birth being 13.11.2001 mentioned in the certificate and same is the statement given by her mother and father in the trial, otherwise, the prosecutrix had been a consenting party. Hence, it is prayed that the applicant be enlarged 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 prosecution relies upon the date of birth certificate given by the Registrar and according to that, she is a minor whose consent or willingness in the incident is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Bhola Kewat is present before this virtual Court through the Help-Desk of the High Court. He made a statement that he has objection in grant of bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, it is alleged that this applicant abducted the prosecutrix on pretext of marrying her and then he established physical relation with the minor prosecutrix which amounts to commission of offence of rape regarding which, he has been prosecuted.

7. Considered the submissions made and also perused the copy of the deposition of the prosecutrix and her parents. The submission regarding the age of the prosecutrix made by counsel for the applicant is clearly disputing the prosecution reliance, therefore, under these circumstances, I feel inclined to grant regular bail to the applicant in this case.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge