

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4182 of 2020

- Shivcharan Das Mahant S/o Etwardas Mahant, Aged About 24 Years, R/o Village- Anjoripali, P.S. And Tahsil Kharsiya, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P.S. Kharsiya, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

----Non-applicant

For Applicant – Shri F.S. Khare, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Govt. Advocate.

Shri J.K. Gupta, Advocate for the complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-08-2020

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 05-06-2020 in connection with Crime No.140/2020 registered at Police Station - Kharsiya, District- Raigarh, Chhattisgarh for the offence under Section 363, 366, 376 D of the IPC and under Section 4, 6 of POCSO Act, 2012.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. No case is made out against him. A totally false FIR has been lodged. The prosecutrix although has made statement under Section 161 of the Cr.P.C. against the applicant, but in her statement under Section 164 of the Cr.P.C. before the Magistrate she has not made any allegation against him. It is submitted that after filing of charge sheet Section 120B of the IPC has been added. The applicant is in jail 05-06-2020. Therefore, it is prayed that the application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has made clear statement alleging against the

applicant under Section 161 of the Cr.P.C. Further, the medical report is also positive and against the applicant. Hence, the application may be rejected.

4. The notice were issued to the complainant who was present before this Court on 10-08-2020 and has made a statement that she has no objection in grant of bail to the applicant.

5. Heard learned counsel for the parties and perused the documents.

6. As per the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and then by keeping her in his custody for about two weeks he established physical relation with her which amounts to commission of offence of rape.

7. Considered on the submissions and also the facts of the case. It is found that the statement of the prosecutrix under Section 164 of the Cr.P.C. which was recorded later on appears to be contradictory to her earlier statement and also looking that at present the complainant side has no objection in grant of bail, therefore, I feel inclined to allow this application.

8. 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge