

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4384 of 2020

- Lokesh Gilhare S/o Late Arjun Gilhare, Aged About 23 Years, R/o Shahid Nagar, Khamtarai, Police Station Khamtarai, Tahsil And District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Khamtarai, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

----Non-applicant

For Applicant – Shri Mirza Hafeez Baig, Advocate.

For Non-applicant/State – Shri D.P. Singh, Deputy Advocate General.

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 14-06-2020 in connection with Crime No.201/2019 registered at Police Station - Khamtarai, District Raipur, Chhattisgarh for the offence under Section 363, 366 & 376 of the IPC and Section 4 of POCSO Act.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The prosecutrix is not minor. The prosecution documents shows her date of birth 12-12-2003, whereas the applicant has in his possession school documents which have been filed along with the application mentions her date of birth as 12-12-2000, otherwise the relationship of the applicant and the prosecutrix had been on consensual basis. Therefore, no case is made out. Hence, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor on the date of incident as her date of birth is 12-12-2003. Therefore, the applicant is not entitled for grant of bail.

4. The complainant was served notice in compliance of Section 439(1A) of the Cr.P.C. which was served for fixed date 10-08-2020, but there was no appearance and no representation on behalf of the complainant.
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 some time he has exploited her sexually, regarding which the FIR has been lodged.
7. Considered on the submissions and also the facts of the case. The rejection order mentions that the prosecutrix was present before the court along with her mother and stated that she had willingly gone with the applicant and married with the applicant and that she has no objection in grant of bail to the applicant. The statement of the prosecutrix under Section 164 of the Cr.P.C. also appears to be contradictory. Therefore, under these circumstances, 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