

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4331 of 2020

- Rajesh Bada, S/o Shri Dulli Bada, Aged About 27 Years, R/o Kanadad, Chowki- Kedma P.S.- Udaipur, District- Sarguja, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through: Station House Officer, Police of Police Station Lemru Korba, District-Korba, Chhattisgarh

---- Respondent/Non-applicant

For Applicant	: Mr. Ashutosh Shukla, Advocate.
For State/respondent	: Mr. Adil Minhaj, Govt. Advocate.

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.16/2019 registered at Police Station- Lemru, Korba, District- Korba (C.G.) for the offence punishable under Section 363, 366, 376(2)(n), 376(3) of the IPC and Section 6 of POCSO Act.
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 04.12.2019. No case is made out against the applicant. The applicant intends to challenge the ground of minority of prosecutrix in trial. The prosecutrix has made a contradictory statement before the Magistrate under Section 164 CrPC admitting the affair with the applicant. Therefore, it is prayed that the applicant 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 on the date of incident was only 14 years and 7 months, 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 complainant appeared on last date of hearing and made a statement that he has no objection in grant of bail to the applicant.
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 abducted the minor prosecutrix on pretext of marrying her and he kept her in his custody, then he has exploited her sexually on a number of occasions.
7. Considered on the submissions and also the statement given by prosecutrix under Section 164 CrPC. Further, looking to the statement of no objection in grant of bail to the applicant made by complainant 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