

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.5559 of 2020

- Rakesh Baghel S/o Ant Ram Baghel Aged About 22 Years R/o Village Kosa, Post Kosa, Police Station Mulmula District Janjgir Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Patan District Durg Chhattisgarh

---- Non-applicant

For Applicant : Mr. Anurag Jha, Advocate.

For Non-applicant/State : Mr. D.P. Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

30-09-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The first application M.Cr.C. No.2347/2019 was dismissed as withdrawn on 01.07.2019 and liberty was granted for filing the repeat application. The applicant has been arrested on 16.01.2019 in connection with Crime No.174/2018, registered at Police Station- Patan, District- Durg, C.G. for offence punishable under Sections 363, 366 & 376 of I.P.C. and Sections 04 and 06 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 prosecutrix was not minor on the date of incident, as the reliance of the prosecution on entry in school register is not a conclusive proof and applicant intends to challenge the same in the trial. According to the statement given by the prosecutrix herself, she had willingly left her parents and resided with the applicant for a whole month and submitted herself for physical relations, hence, it is a case of total consent. The applicant is in jail

since 16.01.2019, therefore, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has remained consistent in her statements before police under Section 161 of Cr.P.C. and before the Magistrate under Section 164 of Cr.P.C., therefore, looking to the facts present, the applicant is not entitled for grant of bail.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, it is alleged that this applicant made a false promise to the minor prosecutrix that he will get her appointed to a job and by deceitful manner, he enticed the prosecutrix to come along with him to Raipur, where she stayed with him for about one month and there he exploited her sexually on a number of occasions.
6. Considered on the submissions and also the facts that are present, the prosecutrix left her parents house without informing them and she never made any attempt to inform them during the period in which she was missing. The applicant is in jail since about 21 month, therefore, under these circumstances, I feel inclined to allow this application.
7. 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, on condition as imposed by the concerned Court.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge