

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5831 of 2020**

- Durgesh Sahu, Son Of Late Jairam Sahu Aged About 22 Years Resident of Ruse, P.S. Pandatarai, District-Kabirdham, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station Kawardha, District-Kabirdham, Chhattisgarh.

---- Respondent

For Applicant : Mr. C.R. Sahu, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****23/11/2020**

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.135/2020 registered at Police-Station-Kawardha, District-Kabirdham (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 4 & 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 prosecutrix was not minor on the date of incident, regarding which she has given an affidavit, which was not considered. The applicant therefore has not committed any offence, hence, 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 statement of prosecutrix under Section 161 as well as 164 CrPC both are against the applicant. Secondly, the filing of affidavit by the prosecutrix shows that the applicant side is influencing and tampering the evidence in the prosecution, therefore, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per prosecution case, it is alleged that this applicant enticed the prosecutrix with false promise to marry her and then abducted her and took her to Bilaspur and then to Ratanpur where he kept her in his custody as his wife and exploited her sexually regarding which offences have been registered against the applicant.
6. Considered on the submissions and facts present in the case. As the applicant intends to challenge the ground of minority of prosecutrix in trial and also looking to the statement that has been given by the prosecutrix about the relationship, I am of this view that this is a fit case for grant of bail to the applicant.
7. 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 his 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