

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6083 of 2020

- Sunil Alias Anil Chouhan, S/o Shri Bedram Chouhan, Aged About 21 Years R/o Ward No.15, Village Loharpali, Police Outpost Bhawarpur, Ps Basha, Dist. Mahasamund (C.G.).

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Saraipali, District : Mahasamund, Chhattisgarh

---- Respondent

For Applicant	: Mr. Vivek K. Shrivastava, Advocate.
For State/respondent	: Mr. D.P. Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

29/10/2020

1. This is second bail application of this applicant. His first bail application MCRC No.1783/2020 is dismissed as withdrawn with liberty to revive the same after examination of prosecutrix.
2. This is 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.275/2019 registered at Police-Station-Saraipali, District-Mahasamund(C.G.) for the offence punishable under Sections 366A & 376(3) of IPC and Section 6 of POCSO Act.

3. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. No case is made out against the applicant. He and prosecutrix both had affair because of which she willingly accompanied and resided willingly with the applicant and also submitted for physical relation. The only ground for prosecution is the date of birth of prosecutrix according to school register, which is 22.1.2005, but the prosecutrix herself has admitted in her statement before the Court in cross-examination that according to Aadhar Card her date of birth is 1.1.1999, therefore, the applicant has successfully challenged the ground of minority of the prosecutrix in trial, hence, it is prayed that he may be enlarged on regular bail.
4. 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 date of birth of prosecutrix shows that she was clearly a minor girl on the date of incident, therefore, any consent or willingness on her part is immaterial. The offence is clearly made out, hence, the application be rejected.
5. The complainant/prosecutrix was present before this virtual Court through the "Help Desk" of the High Court of Chhattisgarh on 14.10.2020 and she had made a statement that she has objection in grant of bail to the applicant.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. As per the prosecution case, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody in different places and then he exploited her sexually on number of occasions.

8. Considered on the submissions and perused the copy of the deposition of the prosecutrix which is filed along with the petition and also looking to the present development of things, I feel inclined to allow the bail application of this applicant.
9. 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

Nisha