NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.6131 of 2020

- Shekh Imran Son Of Late Shekh Yusuf Aged About 25 Years Residence Of Rani Road Purani Basti Korba, Tahsil And District - Korba (Chhattisgarh), District : Korba, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through, Police Station - Kotwali Korba, District - Korba (Chhattisgarh), District : Korba, Chhattisgarh

---- Respondent

For Applicant : Shri Vikash Pandey, Advocate
For Respondent/State : Shri Alok Bakshi, Additional AG

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/10/2020

Heard.

1. In this case, an order was passed on 15-09-2020 directing issuance of notice to informant on the statement that the age of the prosecutrix is less than 16 years on the date of incident. However, from the records in the case diary, it is evident that the age of the prosecutrix was more than 16 years on the date of alleged incident on 14-08-2020. Therefore, there is no legal requirement of issuance of notice to the informant. The presence of the informant is not necessary.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.699/2020 registered at Police Station Kotwali, District Korba for the offence punishable under Section 363, 366-A, 376 of the IPC and Section 4 & 6 of POCSO Act . The applicant was arrested on 17-08-2020.

3. Prosecution case is that the present applicant abducted the prosecutrix and committed rape by keeping her in wrongful confinement.

4. Learned counsel for the applicant would submit that in the present case, the applicant has been falsely implicated and he has not committed any offence. He would submit that from the statement of the prosecutrix, it is clear that the

applicant and the prosecutrix were engaged and only after the engagement, they had gone together and there is no specific allegation of sexual intercourse against the applicant.

5. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that as per the documents relating to age of the prosecutrix, her date of birth is 20-01-2004, meaning thereby, on the date of alleged commission of offence, the prosecutrix was barely 16 years of age, therefore, consent, if any, is immaterial. It is also argued that the prosecutrix in her statement under Section 161 of Cr.P.C., alleged sexual intercourse and the medical report shows that the prosecutrix is not habitual to sexual intercourse.

5. Taking into consideration the submission of learned counsel for the parites, particularly taking into consideration the material with regard to age of the prosecutrix, present is not a fit case for grant of bail.

6. Accordingly, the bail application is rejected.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava)**
Judge

Tumane