NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.6359 of 2020

- Arjunlal S/o Hem Prasad Sahu Aged About 22 Years R/o Village Chechar, Police Station Kasdol, District Balodabazar Bhatapara Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kasdol District Balodabazar Bhatapara Chhattisgarh

---- Respondent

M.Cr.C. No.6370 of 2020

- Suryakant S/o Shyamlal Kewat Aged About 19 Years R/o Village Mudpar, Police Station Kasdol, District Balodabazar Bhatapara Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kasdol, District Balodabazar Bhatapara Chhattisgarh

---- Respondent

For Applicants	: Ms. Supriya Upasane, Advocate.
For Non-applicant/State	: Mr. D.P. Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

13-10-2020

Heard.

1. As both these applications arise out of the same crime numbers i.e. Crime No.396/2020, registered at P.S. Kasdol, District- Balodabazar-Bhatapara (C.G.) for offence under Sections 363, 366, 373 and 376 of I.P.C. and Section 6 of POCSO Act, they are being decided by this common order.

2. It is submitted by the learned counsel for applicants that the applicants in both the cases have been falsely implicated in this case and the prosecutrix is not a minor. The applicants intend to challenge the ground of minority of prosecutrix in the trial. The fact is this that the applicant- Arjun Lal and the prosecutrix both had a love affair. The prosecutrix has willingly accompanied the applicant- Arjun Lal to go from her place and reside with him at different places and also having physical relations with him, which does not amount to commission of any offence. There is no specific allegation against the applicant- Suryakant in M.Cr.C. No.6370 of 2020. Both the applicants are in jail since 19.07.2020. Hence, it is prayed that both of them may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has given statement under Section 161 of Cr.P.C. which mentions about her forcible abduction and rape committed by the applicant Arjun Lal with the aid of applicant- Suryakant. Therefore, no case is made out 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 the applicant- Arjun Lal enticed the minor prosecutrix with false promise to marry her and then with the help of other applicant- Suryakant and one another, he abducted her. The prosecutrix was then kept in custody of the applicant Arjun Lal at different places, where he exploited her sexually which amounts to commission of offence of rape.

6. Considered on the submissions and also the facts present in the case, the statement given by the prosecutrix under Section 164 of Cr.P.C. before the J.M.F.C. appears to be contradictory to her statement under

Section 161 of Cr.P.C. The age of the prosecutrix according to the prosecution case is about 17 years and 08 months, which is being challenged by the applicant side, therefore, under these circumstances, I feel inclined to allow both the applications.

7. Consequently, both these applications filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail are hereby allowed. It is directed that the applicants in both the cases shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika