

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6401 of 2020

- Raju Kumar Dhurve S/o Bedram Dhurve, Aged About 20 Years, R/o Village - Somnapur (wrongly mentioned as Samnapur in the order sheet), Police Station - Kunda, District Kabirdham (Chhattisgarh), District : Kawardha (Kabirdham), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through - Station House Officer, Police Station - Pipariya, District - Kabirdham (Chhattisgarh), District : Kawardha (Kabirdham), Chhattisgarh

---- Non-applicant

For Applicant – Shri Dharmesh Srivastava, Advocate.

For Non-applicant/State – Shri Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-12-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 25-04-2019 in connection with Crime No.110/2019 registered at Police Station – Pipariya, District - Kabirdham, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 3 and 4 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix has been examined in the trial and she has not supported the prosecution case. Therefore, there is no case left against the applicant. Hence, it is prayed that he may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has admitted on the suggestion given by the prosecutor after declaring her hostile witness, that she and the applicant both had physical relation, therefore, the case is made out against the applicant and it is burden of the accused to prove himself innocent. Hence, the applicant is not entitled for grant of bail.
4. Notice were issued to the complainant side and the same was served

for fixed date of 18-11-2020, but there was no appearance and representation on behalf of the complainant on that date.

5. Heard learned counsel for the parties and perused the case diary.

6. The case of prosecution is this, that the applicant abducted the minor prosecutrix of age about 13 years and then by keeping her in his custody he had physical relation with her which amounts to commission of offence of rape.

7. Considered on the submissions and perused copy of the deposition of the prosecutrix filed by the applicant along with the application and after perusal of the same, without making comment on the statement of the prosecutrix, I feel inclined to allow this application.

8. 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge