

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.6462 of 2020

- Digvijay Singh S/o Late Pawan Singh Bhimraj Aged About 19 Years (Wrongly Mention The Bhimganj In Order Sheet) Mahar, R/o Nagarpalika Colony- Dhamtari, Police Station - City Kotwali, District - Dhamtari (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station - Rudri, District - Dhamtari (Chhattisgarh)

---- Non-applicant

For Applicant	: Mr. Sanjeev Kumar Sahu, Advocate.
For Non-applicant/State	: Mr. D.P. Singh, Dy. A.G.
For objector	: Mr. Mahesh Kumar Mishra, Advocate.

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

07-10-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 25.08.2020, in connection with Crime No.50/2020, registered at Police Station- Rudri, District- Dhamtari, C.G. for offence punishable under Sections 363, 366, 372-2 (a) of I.P.C. and Sections 4 and 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case on the basis of false F.I.R. lodged by the father of the prosecutrix. The prosecutrix in this case is not a minor and she had been willing and consenting party throughout because of which, she willingly left her parental house and went to reside with the applicant for some time, before she was recovered from the custody of the applicant on the basis of the false F.I.R. lodged by her father. Her statement given to the police clearly explains her willingness and consent. Further, the prosecutrix is major at present, she is

pregnant and also she is residing in the house of the applicant, therefore, there is altogether no case against the applicant. Therefore, 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 was clearly a minor, therefore, any willingness or consent on her part is immaterial. Therefore, the application may be rejected.
4. Learned counsel for the objector- Mr. Mahesh Kumar Mishra, submits that he is appearing on behalf of the father who is the informant in this case. It is further submitted that the allegation against the applicant is of serious nature who has very clearly manipulated the minor prosecutrix, who was mentally immature. The conduct of the mother of the applicant is also noticeable because she came to the house of the complainant and abducted the minor prosecutrix and thereafter the prosecutrix is in her custody. A separate complaint has been given regarding this act of the mother of the applicant. There is a specific need for examination of the mental maturity of the victim of this case. Hence, under these circumstances grant of bail to the applicant at this stage would be detrimental to the investigation in this case, hence, it is prayed that application be rejected.
5. Heard learned counsel for the parties and perused the case diary.
6. As per the prosecution case, there had been an affair between the applicant and the minor prosecutrix since May 2018, the prosecutrix went missing on 15.03.2020 regarding which missing report was lodged by her father and then she was recovered from the custody of this applicant on 24.04.2020, she has given statement regarding her sexual relation with the applicant on the basis of which, the offence has been registered against the applicant.

7. Considered on all the facts that are present and also the objections that have been raised. At present, I am of this view that the applicant deserves to be granted bail during the pendency of trial against him as the charge-sheet has also been filed, therefore, 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, on condition as imposed by the concerned Court.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge