

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6861 of 2020

Hemlal Sahu, S/o Chheduram Sahu, Aged About 33 Years, Caste- Teli, Resident of Village Temari, Police Station- Komakhan, Tahsil Komakhan, District- Mahasamund (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through: Station House Officer, Police Station- Saraipali, Civil & Revenue District- Mahasamund (C.G.)

--- Respondent

For Applicant : Mr. Yogeshwar Sharma, Advocate.

For State/ Respondent : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06/11/2020

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No. 200/2018, registered at Police Station- Saraipali, District- Mahasamund (C.G.) for the offence punishable under Section 363, 366, 376(2)(N) of IPC and Section 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 31.08.2020 and has been falsely implicated in this case. No case is made out against this applicant. The prosecutrix was not minor on the date and time of incident. However, there had been love affair between them and the

relationship of the applicant and the prosecutrix was based on consent. The same is reflected from the statement given by the prosecutrix under Section 161 & 164 of the Cr.P.C. The prosecutrix had appeared before the Sessions Court making statement of no objection, but the same was not considered. At present, the prosecutrix is residing in the house of the applicant himself. Hence, it is prayed that this applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application submitting that according to the proof of age, the prosecutrix was only 16 years and 4 months at the time of incident, therefore, any consent or willingness on her part, has no consequence. The prosecutrix has also made statement under Section 164 of the Cr.P.C. that she was age below 18 years at the time of incident, therefore, the applicant is not entitled for grant of bail. Hence, the application for grant of bail may be rejected.
4. Heard counsel for both the parties and perused the records.
5. As per case of the prosecution, it is alleged that on pretext of marrying, the applicant abducted the minor prosecutrix and then, by keeping her in his custody, he has exploited her sexually on a number of occasions, regarding which, the offences have been registered.
6. Considered on the submissions and the facts present in this case and on perusing the rejection order, it is found that the prosecutrix had appeared before the Sessions Court and made statement that she has no objection in grant of bail to this

applicant. For these reasons, I am of this view that it would be proper to release the applicant on regular bail, hence, I feel inclined to grant bail to the applicant in this case.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge