

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.6629 of 2020

- Alkesh Yadav S/o Subodh Yadav Aged About 22 Years Residing At Tulsipur Post Jafra Bad P.S. Chhipra Mau Kanij Present Address Hournar Geedam P.S. Geedam District Dantewada, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Police Station Dantewada, District Dantewada, Chhattisgarh

---- Non-applicant

For Applicant : Mr. Pravin Kumar Tulsyan, Advocate.

For Non-applicant/State : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-10-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 29.07.2020 in connection with Crime No.69/2020, registered at Police Station- Dantewada, District- Dantewada, C.G. for offence punishable under Sections 363 and 376 of I.P.C., 1860 and Section 04 of POCSO Act, 2012
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the case and no case is made out against the applicant. The relation of the applicant with the prosecutrix was consensual and they had even performed marriage. These facts are disclosed from the statement given by the prosecutrix under Section 161 of Cr.P.C. which also mentions the reason of lodging F.I.R. i.e. violent behavior of this applicant. Another development that has taken place is this that the Investigation Officer has himself filed application in the Court to withdraw the prosecution of the applicant under Section 04 of POCSO Act and Section 363 of I.P.C., on ground that prosecutrix is not minor, therefore, it is a good case and the applicant is entitled for grant of bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that according to the prosecution case, the date of birth of prosecutrix was 07.01.2003 and she was clearly a minor on the date of incident, therefore, it is not a case of any consent or willingness. The application that was filed for withdrawal of POCSO charges against the applicant has been withdrawn by the Investigation Officer and charge-sheet has been filed against the applicant under the provisions of POCSO Act, therefore, no case is made out for grant of bail to the applicant.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, it is alleged that the applicant and the prosecutrix both got acquainted and then they had developed an affair. In continuation of this affair, the applicant and the prosecutrix both performed a marriage, which is not acceptable under law because of the minority of the prosecutrix. Although they continued to live together for sometime but because of the violent behavior of the applicant, the prosecutrix left him and lodged this F.I.R. Hence, this case.
6. Considered on the submissions and the facts present in the case and also looking to the gradual development of the case that has taken place before lodging of F.I.R., I feel inclined to allow this application.
7. 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.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge