

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7477 of 2020

Bhupendra Nishad, S/o Punitram Nishad, Aged About 19 Years, R/o Village Beltukari, Thana- Tumgaon, District- Mahasamund (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through: Station House Officer, Police Station- Tumgaon, District- Mahasamund (C.G.)

--- Respondent

For Applicant : Mr. Vikash Pradhan, Advocate.

For State/ Respondent : Mr. Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11/12/2020

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. 48/2020, registered at Police Station- Tumgaon, District- Mahasamund (C.G.) for the offence punishable under Section 363, 376, 368/34 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 08.05.2020 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. The applicant intends to challenge minority of the prosecutrix in the

trial, who is major on the date and time of the incident. According to the statement given by the prosecutrix in the investigation, she had been consenting party, therefore, no case is made against the applicant. 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 the prosecutrix was minor of age about 16 years and 6 months on the date and time of the incident, therefore, any consent or willingness on her part, is of no consequence, 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 the applicant enticed the minor prosecutrix with promise to marry her and then, abducted her, kept her in his custody for some time and exploited her sexually by having physical relation with her.
6. Considered on the submissions and the facts present in this case. After considering the statement of the prosecutrix, that has been given by prosecutrix under Section 164 of the Cr.P.C. and also the other circumstances present, 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 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 trial Court, for his appearance as and when directed.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Arun