

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6654 of 2020

- Botari @ Suresh Chauhan S/o Dasharam Chauhan, Aged About 19 Years, R/o Village Loharshi, Police Station Shivrinarayan, District Baloda Bazar - Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police of Police Station Gidhouri, District Baloda Bazar - Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Non-applicant

For Applicant – Shri Anil Gulati, Advocate.

For Non-applicant/State – Shri Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

14-10-2020

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 20-08-2020 in connection with Crime No.22/2020 registered at Police Station - Gidhouri, District Baloda Bazar - Bhatapara, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4 of Protection of Children from Sexual Offences Act.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The prosecutrix was not minor. The applicant intends to challenge the ground of minority of the prosecutrix in trial. The prosecutrix has given statement under Section 164 of the Cr.P.C. which shows that she had willingly accompanied, married and resided with the applicant, therefore, it is a case of consent. No case is made out against the applicant. Hence, it is prayed that the application be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that according to the entry in the school register, the prosecutrix

was minor on the date of incident, therefore, her willingness or consent is immaterial. Therefore, the application may be rejected.

4. Heard learned counsel for the parties and perused the documents.

5. As per the case of prosecution, it is alleged that this applicant abducted the minor prosecutrix of age 17 years and 6 months and then after performing a sham marriage with her he has exploited her sexually which amounts to commission of offence of rape.

6. Considered on the submissions and particularly the statement that the prosecutrix has given under Section 164 of the Cr.P.C. and on that basis 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge