

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.6859 of 2020

- Vishwanath Savra S/o Pahri Savra Aged About 20 Years R/o Panchshil Nagar, Baloda Bazar, P. S. City Kotwali, Balodabazar, District Balodabazar-Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P. S. City Kotwali, Balodabazar, District Balodabazar-Bhatapara Chhattisgarh

---- Non-applicant

For Applicant : Mrs. Supriya Upasane, Advocate.

For Non-applicant/State : Mr. Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-10-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 13.05.2020 in connection with Crime No.114/2020, registered at Police Station- City Kotwali, Balodabazar, District- Balodabazar- Bhatapara, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C., 1860 and Sections 04 and 05 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. The applicant and the prosecutrix both had an affair. The prosecutrix was not minor on the date of incident. She has stated her age to be about 18 years at the time of her medical examination. In the statement given by the prosecutrix under Section 161 of Cr.P.C. she has stated about her affair with the applicant and also her consent and willingness. Therefore, no case is made out. Hence, 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 on the date of incident and further, she has given statement before the Magistrate

under Section 164 of Cr.P.C. which mentions about the offences committed by the applicant, 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 this applicant abducted the minor prosecutrix and then, by keeping her in his custody, has exploited her sexually on numerous occasions. Hence, this case.
6. Considered on the submissions and the facts present in the case, it appears that the statements under Section 161 of Cr.P.C. and under Section 164 of Cr.P.C. are not uniform and there appears to be development in the subsequent statement recorded under Section 161 of Cr.P.C., therefore, under these circumstances, 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