

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.6838 of 2020

- Kirat Kumar Surya S/o Isamani Kumar Surya Aged About 21 Years R/o Akhrabhanta Tukra (Fulvari), Police Station- Basna, District- Mahasamund Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through SHO, Police Station- Basna, District- Mahasamund Chhattisgarh

---- Non-applicant

For Applicant : Mr. Vaibhav A. Goverdhan, Advocate.

For Non-applicant/State : Mr. Gurudev I. Sharan, 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 31.08.2020 in connection with Crime No.418/2020, registered at Police Station- Basna, District- Mahasamund, C.G. for offence punishable under Sections 363, 366 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. The applicant and the prosecutrix both had an affair, which is reflected from her statement under Section 164 of Cr.P.C. before the judicial Magistrate. The prosecutrix is not minor and this will be established in defence by the applicant. Therefore, the F.I.R. lodged is totally false and baseless. 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 of age below 18 years, therefore, her willingness or consent does not matter. Hence, it is prayed that this application may be rejected.
4. Heard learned counsel for the parties and perused the case diary.

5. According to the prosecution case, it is alleged that this applicant forcibly abducted the minor prosecutrix and then, forcibly had physical relation with her after keeping her in his custody for some time which amounts to commission of offence of rape. Hence, this case.
6. After considering on the submissions and the facts present in the case and also the statement that the prosecutrix has given under Section 164 of Cr.P.C., 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