

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7126 of 2020

- Akshay Kumar Barman S/o Sahdev Barman, Aged About 21 Years, Caste Satnami, R/o Village Navagaon, Tahsil and P.S. Malkharouda, District Janjgir-Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through the Station House Officer, P.S. Navagarh, District Janjgir-Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Non-applicant

For Applicant – Shri C.P. Lahrey, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-12-2020

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 10-07-2020 in connection with Crime No.180/2020 registered at Police Station - Navagarh, District Janjgir-Champa, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix is not minor. The family of the applicant and the prosecutrix both had been to Punjab to earn livelihood and then an understanding had developed that the applicant will marry the prosecutrix. Therefore, the applicant and the prosecutrix performed marriage and started living together. Hence, no offence has been committed by the applicant. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that there is categorical statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. of the prosecutrix making allegations against the applicant and also that the age of the prosecutrix was only 16

years, therefore, any consent or willingness on her part is of no consequence. Hence, the offences registered against the applicant are clearly made out and he has no entitlement for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.

5. As per the prosecution case, the minor prosecutrix of age about 16 years went missing on 24-06-2020 regarding which the FIR was lodged on 30-06-2020. The prosecutrix was then recovered from custody of this applicant on 09-07-2020 and on the basis of the statement given by her offences have been registered against the applicant regarding commission of offence of rape and abduction.

6. Considered on the submissions and facts present in the case. As the applicant side intends to challenge the ground of minority of the prosecutrix in the trial and also after considering the statement that the prosecutrix has given in the investigation, I am of this view that for the present the applicant should be granted bail during pendency of the trial.

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