

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7170 of 2020

Ajay Kumar Chauhan, S/o Shankarlal Chauhan, Aged About 32 Years,
R/o Purani Basti, Kharsiya, Tehsil Kharsiya, District- Raigarh (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through the Police Chowki and Police Station-
Kharsiya, District- Raigarh (C.G.)

--- Respondent

For Applicant : Mr. Sanjay Agrawal, Advocate.

For State/ Respondent : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26/11/2020

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. 467/2019, registered at Police Station- Kharisiya, District- Raigarh (C.G.) for the offence punishable under Section 363, 366, 376 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 06.11.2019 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. She has clearly stated in her statement under Section 164 of the Cr.P.C. about her affair and relation with the applicant, therefore,

no case is made out 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 only 16 years at the time of incident, therefore, any willingness or consent on part of the prosecutrix, is immaterial, therefore, no case is made out for grant of bail to the applicant. 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 and the prosecutrix were acquainted with each other and they had affair. The applicant abducted the minor prosecutrix and then, by keeping her in his custody, he made physical relation with her. The prosecutrix was recovered on 03.11.2019 from possession of the applicant. Subsequent to which, on the basis of her statement, the offences have been registered against the applicant.
6. Considered on the submissions and the facts present in this case. Looking to the statement of the prosecutrix given under Section 164 of the Cr.P.C. and 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 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