

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.7228 of 2020

- Siddhram Baiga S/o Panaku Singh Baiga Aged About 19 Years Resident Of Keshmarda, Police Station Taregaon Jungle, District Kabirdham Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Taregaon Jungle, District Kabirdham Chhattisgarh

---- Non-applicant

For Applicant : Mr. Dashrath Kushwaha, Advocate.

For Non-applicant/State : Mr. D.P. Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-11-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 30.05.2020, in connection with Crime No.25/2020, registered at Police Station- Taregaon Jungle, District- Kabirdham, C.G. for offence punishable under Sections 342, 366 and 376 of I.P.C. and Sections 03 and 04 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the case. The statement that has been given by prosecutrix shows that she came out of her house on being called by the applicant and then he also had physical relation with her without any opposition. Therefore, it is a case of consent. The applicant is in jail since 30.05.2020, therefore, it is prayed that he may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the age of prosecutrix was only 16 years and 09 months on the date of incident, therefore, the act of the applicant

amounts to commission of offence of rape. The applicant has a previous antecedent. For the reason that there being one another case under Section 306 of I.P.C. registered against him, hence, he is not entitled for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, it is alleged that on the date of incident, this applicant abducted the minor prosecutrix and then on pretext of marrying her, he confined her in his house and without her willingness and consent made physical relation with her. Hence, this case.
6. Considered on the submissions and the facts present in the case, also looking to the statement given by the prosecutrix, it appears that there was not a continuing affair between them. It is a case of single incident. Subsequent to which, the applicant also refused to marry the prosecutrix, hence under these circumstances, I do not 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 rejected.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge