

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7561 of 2020

- Anil Agariya S/o Prem Sai Agariya, Aged About 22 Years, R/o Village Sedam, Tahsil and Police Station Batauli, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Batauli, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Non-applicant

For Applicant – Shri Anurag Singh, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-12-2020

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 09-09-2020 in connection with Crime No.99/2019 registered at Police Station – Batauli, District Surguja, Chhattisgarh for the offence under Section 363, 366, 376 (2) (a) of the IPC and Section 5(a), 6 of Protection of Children from Sexual Offences Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix was not minor. According to the Adhar Card of the prosecutrix, her date of birth is 01-01-1999, therefore she was aged about 20 years on the date of incident. The statement of the prosecutrix in the investigation reveals that she was willing and consenting party. The applicant is in jail since 09-09-2020. The prosecutrix has sworn affidavit in support of this bail application which has been filed in this case. Therefore, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that according to the entry in the school register, the date of birth of the prosecutrix is 12-11-2002, therefore, she was of age about 16 years and 11 months, hence, she was minor at the time of incident. Further, there is also

statement that the relation was continuing three to four years prior to the date she eloped with the applicant. Therefore, no case is made out for grant of bail.

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

5. The prosecution case is this, that this applicant abducted the minor prosecutrix in the month of October, 2019. The prosecutrix was taken by him to Banaras where they lived together for few months and when lockdown of the pandemic lifted they returned to their village. Then, the applicant was arrested. According to the statement given by the prosecutrix the offences have been registered against the applicant.

6. After considering the facts and circumstances of the case and the statement of the prosecutrix and also the submission of the applicant side regarding challenge to the age of the prosecutrix, 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.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge