

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.8360 of 2020

- Birendra Kumar Vishwakarma S/o Uday Vishwakarma, Aged About 27 Years R/o Jagannathpur Sankra, Police Station And Tahsil Balod, District Balod Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Balod, District- Balod, Chhattisgarh

---- Non-applicant

For Applicant : Mr. Sanjay Kumar Agrawal, Advocate.

For Non-applicant/State : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08-12-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 21.09.2020, in connection with Crime No.475/2018, registered at Police Station- Balod, District- Balod, C.G. for offence punishable under Sections 363, 366 and 376(2) of I.P.C. and Sections 04, 05(ख) and 06 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 prosecutrix is not minor, she has willingly accompanied the applicant and submitted for physical relation with him, which is reflected from her statement in the investigation. The applicant is in jail since 21.09.2020. 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 on the date of incident, the age of prosecutrix was below 18 years, therefore, any consent or willingness on her part is of

no consequence. Further, according to the statement given by the prosecutrix in the investigation, the offences are clearly made out against the applicant. Hence, this application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, the applicant was already married, even then he developed an affair with the minor prosecutrix. The applicant abducted the minor prosecutrix on 20.12.2018 and took her to Hyderabad where he performed marriage with the prosecutrix in one Arya Samaj temple and continued residing there with her until the prosecutrix was recovered on 19.09.2020. An F.I.R. was lodged regarding her abduction. Hence, this case.
6. Considered on the submissions and the facts present in the case and after looking to the statement that the prosecutrix given and the other circumstances present, 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