

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7750 of 2020**

Santosh Das, S/o. Amar Das, aged about 25 years, Caste - Panika, R/o. Village - Sarbhoka Junapara, Police Station - Patna, Tahsil - Baikunthpur, District - Korea Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through - Station House Officer, Police Station - Ramanujnagar, District - Surajpur Chhattisgarh.

---- Respondent

For Applicant	: Mr. D.N. Prajapati, Advocate
For Respondent/State	: Mr. Gurudev I. Sharan, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/12/2020**

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.166/2020, registered at Police Station – Ramanujnagar, District – Surajpur (C.G.) for the offence punishable under Section 363, 366, 376 (2) (ढ) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. Her date of birth according to Aadhar Card is 20.04.2002 and the same is mentioned in the marksheet of school. Therefore, other date of birth 20.04.2003 on which the prosecution is relying has become disputed. There had been clearly

love affair between the applicant and the prosecutrix. Therefore, the prosecutrix has willingly accompanied and resided in the house of the applicant and had physical relation with him. The prosecutrix has also sworn affidavit in support of the applicant, which is the part of charge-sheet and case diary. Therefore, it is prayed that the applicant may be released on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix was clearly a minor on the date of incident and that she has made a clear allegation regarding forceful intercourse made by the applicant with her. Therefore, no case is made out for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, the applicant and the prosecutrix both were acquainted with each other. On 16.09.2020, the applicant came to the house of the minor prosecutrix and had physical relation with her and then by enticing her he abducted her. The applicant then by keeping the prosecutrix in his custody again had physical relation with her, which amounts to commission of offence of rape.
6. Considered on the submissions and the facts of the case. Looking to the statement that has been given by the prosecutrix in the investigation and the affidavit sworn by her in support of the applicant, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

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

Balram