

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 266 of 2021

Jitendra Salame, S/o Rupsingh Salame, Aged About 19 Years, R/o Village Pusewada, Police Station Khadgaon, District- Rajnandgaon (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Manpur, District- Rajnandgaon (C.G.)

--- Respondent

For Applicant : Mr. Rahim Ubwani, Advocate.

For State/ Respondent : Ms. Reena Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26/02/2021

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. 62/2020, registered at Police Station- Manpur, District- Rajnandgaon (C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 3, 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 09.10.2020 and has been falsely implicated in this case. The investigation statement of the prosecutrix clearly reveals that she had love affair with the applicant and on her

invitation, she and the applicant both eloped and resided together for sometime. The allegation regarding offence of rape, is false. The prosecutrix had appeared before the Sessions Court and made statement that she has no objection in grant of bail to this applicant and she also ready to make such statement before this Court. 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 age of the prosecutrix is below 16 years, therefore, on account of her minority, her consent and willingness, is immaterial. The offences registered against the applicant, are made out. Hence, the application for grant of bail may be rejected.
4. The prosecutrix is present today before this Court. She makes statement that she has no objection in grant of bail to this applicant and on the previous date i.e. on 19.02.2021, her statement of objection, has been erroneously made because she could not understand the question put to her.
5. Heard counsel for both the parties and perused the records.
6. The case of the prosecution is this, that the applicant and the prosecutrix both were having affair. It is alleged that on the date of incident, this applicant abducted the minor prosecutrix and kept her in his custody for sometime, during which, he has exploited her sexually knowing well that she was not capable of giving consent for such relationship, regarding which, FIR has

been lodged against the applicant.

7. Considered on the submissions and the facts present in this case. Copy of the order-sheet dated 25.11.2020 of the Sessions Court, has been filed, which, mentions that the prosecutrix had appeared before that court and made statement of no objection and she has made similar statement before this Court today. Although, the previous statement of the prosecutrix on 19.02.2021 recorded in the order-sheet, is that of objection, but considering on the statement of the prosecutrix, which admits about affair with the applicant and the other circumstances present including no objection from the prosecutrix side, I feel inclined to allow the bail application of this applicant.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. 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 trial Court, for his appearance as and when directed.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge