

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 49 of 2021

- Sohan Lal Potai S/o Late Shri Banshilal Potai, Aged About 24 Years, R/o. Village - Baskund, Thana - Korar, Civil and Revenue District - North Baster Kanker Chhattisgarh., District : Kanker, Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh, Through the Station House Officer, Police Station - Korar, District - North Baster Kanker Chhattisgarh., District : Kanker, Chhattisgarh

---- Non-applicant

For Applicant – Mr. Sunil Sahu, Advocate.

For State/Non-applicant – Ms. Anjali Singh Chouhan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-03-2021

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 18-11-2019 in connection with Crime No.34/2019 registered at Police Station – Korar, District - North Baster Kanker, Chhattisgarh for the offence under Section 363, 366, 376 (2) (n) of the IPC and Section 6 of the Protection of Children from Sexual Offences Act.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix was not minor. The relationship of the prosecutrix with the applicant continued for some time, which shows her consent. Apart from that, the statement of the prosecutrix under Section 164 of the Cr.P.C. also does not show that any offence has been committed by this applicant. Therefore, it is prayed that the applicant be enlarged on bail.
3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor and therefore her consent and willingness is immaterial. Hence, the application may be rejected.
4. Heard learned counsel for the parties and perused the case diary.
5. The prosecution case is this, that the applicant and the prosecutrix both

had been visiting each other and were also having physical relation. The prosecutrix was minor of age below 18 years, therefore, she was not capable of giving consent. Subsequently, the applicant abducted the minor prosecutrix, kept her in his custody and then exploited her sexually, regarding which the FIR has been lodged.

6. Considered on the submissions and after looking to the statement of the prosecutrix under Section 164 of the Cr.P.C., 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