

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 559 of 2021

- Toshan Yadav S/o Ganesh Yadav, Aged About 24 Years, R/o Village Mainpur-2, Police Station, Tahsil and District Gariyaband (Chhattisgarh), District : Gariyabandh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Gariyaband District- Gariyaband (Chhattisgarh), District : Gariyabandh, Chhattisgarh

---- Non-applicant

For Applicant – Shri Mohammad Afroz Athar, Advocate.

For State/Non-applicant – Shri Ashish Tiwari, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24-06-2021

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 02-11-2020 in connection with Crime No.212/2020 registered at Police Station – Gariyaband District- Gariyaband, Chhattisgarh for the offence under Section 363, 366, 376(2) of the IPC and Section 4 & 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows that she was a willing and consenting party throughout, in eloping, marrying the applicant and also having physical relation with him. The prosecutrix was not minor on the date of incident. Further, a settlement has arrived between family members of the applicant and the prosecutrix. Further, charge sheet has been filed. Therefore, it is prayed that this application be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor of age below 18 years, therefore, she was not capable of giving consent for such relationship. Hence, the application may be rejected.

4. Notice issued to the complainant has been returned served, but there is no appearance and no representation.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and then by performing a sham marriage with her he exploited her sexually knowing well that she was not capable of giving consent for such relationship, this continued until the prosecutrix was recovered by the police.
7. Considered on the submissions and the facts given in the case. As the charge sheet has been filed and the case is now pending for trial, therefore, I feel inclined to allow this application.
8. 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.
9. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge