

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 499 of 2021

Sushant Kuldip, S/o Kamil Kuldip, Aged About 22 Years, R/o Jogi Bangla, E/13, Ambedkr Awas, Police Station- D.D. Nagar, District- Raipur (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through: Station House Officer, Police Station D.D. Nagar, District- Raipur, (C.G.)

--- Respondent

For Applicant	:	Mr. Devershi Thakur, Advocate.
For State/ Respondent	:	Ms. Shivali Dubey, Panel Lawyer.
For Complainant/ Objector	:	Mr. Aman Kesharwani, Advocate.

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. 338/2020, registered at Police Station- D.D. Nagar, District- Raipur (C.G.) for the offence punishable under Section 363, 366, 376 (3) of IPC and Section 4, 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 10.11.2020 and has been falsely implicated in this case. There had been love affair between the applicant and the

prosecutrix. The prosecutrix was being compelled by her parents to marry with elderly person, because of which, she willingly left with this applicant and then, performed marriage and was residing with him. All of this was based on consent. The age of the prosecutrix is disputed as the only reliance of the prosecution is on the entry in the school register, which is not a conclusive proof. 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 the age of the prosecutrix was only 15 years and 2 months on the date of incident, therefore, her statement about her residence and her relation with the applicant, amounts to commission of offences of abduction and rape. Hence, the application for grant of bail may be rejected.
4. The complainant-mother of the prosecutrix - D. Laxmi Rao, is present before this Court along with the prosecutrix, on notice. The complainant has objection in grant of bail to this applicant, whereas, the prosecutrix herself states that she has no objection in grant of bail to this applicant.
5. Heard counsel for both the parties and perused the records.
6. As per case of the prosecution, it is alleged that this applicant abducted the minor prosecutrix and kept her in his custody for sometime and also subjected her to physical relation 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. Looking to the statement of the prosecutrix under Section 161 & 164 of the Cr.P.C. and her statement of no objection in the Court and further that the trial in this case is at preliminary stage, hence, 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