

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 754 of 2021

Banshi Sonwani (wrongly mentioned in order sheet Sonwashi) S/o Shiv Sonwani, Aged About 26 Years, R/o Village Utai, Police Station Utai, Tahsil Patan, District- Durg (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through: Police Station Khadgaon, District- Rajnandgaon (C.G.)

--- Respondent

For Applicant : Mr. Pawan Kumar Kashyap, Advocate.
For State/ Respondent : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08/03/2021

1. Heard on admission.
2. Admit.
3. Learned State counsel submits that the case diary is available.
4. Both the counsel have agreed to make their submissions.
5. 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. 07/2019, registered at Police Station- Khadgaon, District- Rajnandgaon (C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 4, 6 of the Protection of

Children from Sexual Offences Act, 2012.

6. Learned counsel for the applicant submits that the applicant is in jail since 15.12.2019 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident and her statement under Section 161 & 164 of the Cr.P.C. reveals about her willingness and consent. Hence, it is prayed that this applicant may be enlarged on bail.
7. On the other hand, learned counsel for the State opposes the bail application submitting that the prosecutrix was minor of age below 18 years on the date of incident, therefore, any willingness or consent on her part, is immaterial. Hence, the application for grant of bail may be rejected.
8. Heard counsel for both the parties and perused the records.
9. The case of the prosecution is this, that the prosecutrix was abducted by the applicant and then, kept her in his custody during which, he has exploited her sexually knowing well that she was not capable to give valid consent for such relationship, regarding which, FIR has been lodged against this applicant.
10. 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 the other circumstances present, I feel inclined to allow the bail application of this applicant.
11. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
12. 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

Arun