

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 657 of 2021

Romesh Joshi, S/o Shri Chintaram Joshi, Aged About 22 Years, R/o Piparchhedi (Gagra) Bhathapara, P.S. Arjuni, District- Dhamtari (C.G.) at present address near new poltri farm, P.S. Telibandha, Raipur, District- Raipur (C.G.)

--- Applicant

Versus

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

--- Respondent

For Applicant : Mr. C.R. Sahu, Advocate.

For State/ Respondent : Mrs. Smita Jha, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08/03/2021

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. 414/2019, registered at Police Station- Telibandha, District- Raipur (C.G.) for the offence punishable under Section 363, 366, 37(2)(n) of IPC and Section 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 23.11.2020 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident and

the ground of minority of the prosecutrix, shall be challenged in the trial. The prosecutrix had filed an affidavit in the Sessions Court making a statement that she is major, which was not given consideration. Her statement under Section 161 & 164 of the Cr.P.C. reveals about her willingness and consent, therefore, no case is left against this applicant. 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 prosecutrix was minor 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.
4. Complainant-father of the prosecutrix- Pawan Sahu is present before this Court on notice and he has made statement that he has no objection in grant of bail to this applicant.
5. Heard counsel for both the parties and perused the records.
6. The case of the prosecution is this, that the applicant abducted the minor prosecutrix and then, by keeping her in his custody, 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.
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 also the statement of no objection made by father of the prosecutrix, 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

Arun