

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 788 of 2021

- Dhanesh Yadav @ Dhaneshwar S/o Santosh Yadav, Aged About 26 Years, R/o Durga Chowk Mathpara, Police Station- Tikrapara, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station- Tikrapara Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri C.R. Sahu, Advocate.

For Non-applicant/State – Shri Afroj Khan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-02-2021

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 22-03-2018 in connection with Crime No.123/2018 registered at Police Station – Tikrapara Raipur, District- Raipur, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 3, 4 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix was not minor. Further, her statement under Section 164 of the Cr.P.C. reveals that there had been affair and consensual relationship of the applicant and the prosecutrix and they have also performed marriage. Therefore, there is no case against this applicant. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that on the date of incident the prosecutrix was minor according to the entry in school records, therefore, she was not competent to give any consent for physical relation. Hence, the application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.

5. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and then performed marriage with her in a temple, which is not lawful. Subsequent to which, he established physical relation with the prosecutrix continuously until she was recovered by the police.

6. Considered on the submissions and facts of the present case and after considering 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