

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.1058 of 2021

- Rashid Khan S/o Shri Jamal Khan Aged About 29 Years R/o Ward No. 06 Thanapara P. S. Rajim, District Gariyaband Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P.S. Panduka, District Gariyaband Chhattisgarh

---- Non-applicant

For Applicant : Mr. Pragalbha Sharma, Advocate.

For Non-applicant/State : Mr. Akhtar Hussain, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

25-02-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 09.01.2021, in connection with Crime No.07/2021 registered at Police Station-- Panduka, District- Gariyaband, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C. and Section 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. Her statement reveals that she has willingly accompanied and resided with the applicant and had physical relation with the applicant. Therefore, there is no case present. Hence, it is prayed that the applicant may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor on the date of incident,

therefore, any willingness or consent on her part is immaterial. Further, she has made statement that the physical relation with the applicant was forcible. Hence, it is prayed that this application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, the applicant and the minor prosecutrix both were acquainted to each other. On 01.01.2021, this applicant abducted the minor prosecutrix and performed marriage with her and then had forcible physical relation with her knowing well that she was not capable of giving consent. The prosecutrix was then recovered on 09.01.2021 from the custody of this applicant and then the F.I.R. was lodged. Hence, this case.
6. Considered on the submissions and also the statement of the prosecutrix under Section 164 of Cr.P.C., I feel inclined to allow this application.
7. Consequently, this application filed by the applicants 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 two local surety each 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