

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1529 of 2021

- Chhavilal Khadiya S/o Late Jaharsaay Khadiya Aged About 19 Years, R/o Village - Gram Dhouradand, Tahsil and Police Station Lailunga, District Raigarh Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Tamnar, District Raigarh Chhattisgarh

---- Non-applicant

For Applicant –Shri Ashutosh Mishra, Advocate.

For State/Non-applicant – Shri Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-04-2021

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 30-07-2020 in connection with Crime No.255/2020 registered at Police Station – Tamnar, District Raigarh, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4 of POCSO Act.

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 reveals regarding her consensual relation with the applicant and about her willingness to go and reside with him. Therefore, there is no case against this applicant. The applicant is in jail since 30-07-2020. Hence, it is prayed that he be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was clearly minor of age below 16 years, therefore, her consent and willingness is immaterial. Hence, the application may be rejected.

4. Notice was issued to the complainant which has been returned served, but there is no appearance and no representation.

5. Heard learned counsel for the parties and perused the documents.

6. According to the prosecution case, this applicant abducted the minor prosecutrix on 13-07-2020, took her to a place where he kept her in his custody and also exploited her sexually knowing well that she was not capable of giving consent. After lodging of the missing report, the prosecutrix was recovered on 29-07-2020, then on the basis of the statement given by her the offences have been registered against the applicant.

7. Considered on the submission. After taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C. and other circumstances present, I feel inclined to allow this application.

8. 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.

9. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge