

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1563 of 2021**

Atul Kumar Chauhan, S/o. Kamlesh Singh Chauhan, aged about 18 years, R/o. Village Sultanpur Navada, Naglapainth, Police Station -Bevar, District Mainpuri Uttar Pradesh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Police Station City Kotwali, Jashpur, District Jashpur Chhattisgarh.

---- Respondent

For Applicant : Dr. Shailesh Ahuja, Advocate

For Respondent/State : Ms. Akshara Amit, P.L.

For Objector/complainant : Mr. Basant Kewartya, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

05/08/2021

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.227/2020, registered at Police Station – City Kotwali, Jashpur, District – Jashpur (C.G.) for the offence punishable under Section 363, 366 a & 376 of the Indian Penal Code and Section 5 & 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 29.01.2021. The applicant himself was minor on the date of

incident and he has been treated as major by putting behind the bars in jail. Statement of the prosecutrix under Section 164 of Cr.P.C. shows that she was willing and consenting party. She travelled from Jashpur to Nagpur and went to other places, where she resided for two and half months with the applicants and performed marriage, subsequent to that they had physical relation consensually. The prosecutrix was not minor on the date of incident. Hence, it is prayed that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix was minor on the date of incident, therefore, her willingness and consent is immaterial. Therefore, the applicant is not entitled to be released on bail.
4. Prosecutrix is virtually present on notice along with her counsel Mr. Basant Kewartya. She has made statement of no objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody and took her to different places, where exploited her sexually knowing well that she was not capable to give valid consent.
7. Considered on the submissions. Looking to the statement of the prosecutrix under Section 164 of Cr.P.C. and also that she has no objection in grant of bail to the applicant, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that 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

Balram