

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1643 of 2021

- Kapil Yadav S/o Shri Kailash Yadav Aged About 20 Years, R/o Village Rasouta, Tahsil and Police Station Palari, District Baloda Bazar -Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, Police Station Palari, District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

----Non-applicant

For Applicant – Mr. Jitendra Shukla, Advocate.

For Non-applicant/State – Ms. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-07-2021

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 05-02-2021 in connection with Crime No.13/2021 registered at P.S. - Palari, District Baloda Bazar-Bhatapara, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4, 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 05-02-2021. Charge sheet has been filed. The trial is not making any progress. The statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows that she was willing and consenting party in all the events of the incident. Therefore, the applicant is entitled for grant of bail.
3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor of age below 16 years, therefore, her consent and willingness is immaterial. Hence, the application may be rejected.

4. The prosecutrix has virtually appeared before this Court on 16-07-2021 and she had objection in grant of bail to this applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. The prosecution case is this, that the minor prosecutrix of age below 16 years was abducted by this applicant who took her to places, kept her in his custody and then exploited her sexually knowing well that she was incapable of giving consent. Hence, this case.
7. Considered on the submissions and after taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C., I am of this view that the applicant should be granted regular bail.
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