

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.1757 of 2021

- Sukru Kashyap S/o Balram Kashyap Aged About 20 Years R/o Vill. Puspall, Post - Puspall, P.S.- Parpa, Distt. Bastar (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P.S.- Parpa, Distt. Bastar (Chhattisgarh)

---- Non-applicant

For Applicant : Mr. J.K. Gupta, Advocate.

For Non-applicant/State : Mrs. Smita Jha, Panel Lawyer.

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

09-03-2021

Heard

1. Admit.
2. Learned State counsel submits that case diary is available.
3. Learned counsel for both the parties have agreed to make submissions.
4. Also 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 14.12.2020, in connection with Crime No.283/2020 registered at Police Station-- Parpa, District- Bastar, C.G. for offence punishable under Sections 376 and 417 of I.P.C. and Section 06 of POCSO Act.
5. 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. The relationship of the applicant with the prosecutrix was based on consent, therefore, she willingly came to live with the applicant and had physical relation with him. The statement of the prosecutrix about starting of relationship from April 2019 is vague and the incident

had taken place after her attaining the majority. The applicant is in jail since 14.12.2020. Hence, it is prayed that the applicant may be granted bail.

6. Learned counsel for the State/non-applicant opposes the application and submits that at the time of incident, the prosecutrix was minor, therefore, her consent or willingness is immaterial. Further, the prosecutrix has clearly made a statement against this applicant in investigation. Therefore, the applicant is not entitled for grant of bail.
7. Heard learned counsel for the parties and perused the case diary.
8. According to the prosecution case, the applicant allured the minor prosecutrix with promise to marry her and started exploiting her sexually by having physical relation with her since April 2019. This continued for some time and then on 29.11.2020, this applicant abducted the minor prosecutrix and kept her in his custody and also had physical relation with her, on pretext of marrying her. Subsequent to which, F.I.R. has been lodged. Hence, this case.
9. Considered on the submissions. The date of birth of the prosecutrix is 02.08.2001. On the date F.I.R. was lodged, the prosecutrix was of age about 18 years and also looking to the details of the incident that had been given by the prosecutrix in her statement, I am of this view that the applicant should be allowed regular bail.
10. 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.
11. Certified copy as per rules.