

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2220 of 2021

- Nitesh Chouhan S/o Paras Chouhan, Aged About 24 Years, R/o Sakin-Reghwa, Sahpur, Koriyarpur Police Station - Mohammadabad District - Mau (Uttar Pradesh)., District : Mau, Uttar Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Dondilohara District - Balod Chhattisgarh., District : Balod, Chhattisgarh

----Non-applicant

For Applicant – Ms. Shriya Mishra, Advocate.

For Non-applicant/State – Ms. Hamida Siddiqi, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-07-2021

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 28-09-2020 in connection with Crime No.66/2018 registered at P.S. - Dondilohara District - Balod, Chhattisgarh for the offence under Section 363, 366(A), 376(2)(N)(3) of the IPC, Section 4, 5(1), & 6 of Protection of Children from Sexual Offences Act and Section 3(A)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 28-09-2020. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows that the prosecutrix had been a willing and consenting party as she herself eloped with the applicant and resided with him for almost one year until she left because of some dispute. Therefore, there is no case present against this applicant. Hence, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor of age below 18 years on the date of

incident. Further, the statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. reveal that this applicant abducted the minor prosecutrix from the custody of her natural guardian and thereafter he had physical relation with her knowing well that she was a minor. Therefore, the application may be rejected.

4. The complainant had virtually appeared before this Court on 27-07-2021 and had objected to grant of bail to the applicant.

5. Heard learned counsel for the parties and perused the case diary.

6. According to the prosecution case, the minor prosecutrix was abducted by this applicant and she was taken by him to Lucknow, where both of them resided for about one year and during this period this applicant continuously had physical relation with the minor prosecutrix which amounts to commission of offence of rape. Subsequent to that, some dispute arose and the prosecutrix left this applicant and later on got shelter from another co-accused Deepak Kumar who took her to Gorakhpur and performed marriage with the prosecutrix. Subsequent to the lodging of the FIR, the prosecutrix has been recovered and her statement has been recorded.

7. Considered on the submissions and entire facts of the case. As it is found that co-accused Deepak Kuamar has been granted bail and this applicant is also similarly placed, hence, 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