

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2135 of 2021

- Sunil @ Suraj Gandharv S/o Late Devanand Gandharv, Aged About 22 Years, R/o Village Tekanpara, Police Station Lormi, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pali, District Korba Chhattisgarh, District : Korba, Chhattisgarh

----Non-applicant

For Applicant – Mr. Vijay Kumar Sahu, Advocate.

For Non-applicant/State – Ms. Shivali Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

02-08-2021

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 12-01-2021 in connection with Crime No.10/2021 registered at P.S. - Pali, District Korba, Chhattisgarh for the offence under Section 376, 376 (n), 363 of the IPC and Section 4 and 6 of POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 12-01-2021. Charge sheet has been filed. The prosecutrix was not minor on the date of incident. The statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. clearly reveal that there had been love affair of the prosecutrix with this applicant since about one year. As the same was discovered by her parents who intervened, but subsequently the prosecutrix kept her contact with the applicant and willingly left to go with the applicant and has resided in different places and also they had physical relation consensually. Therefore, there is no case present against this applicant. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

submitting that the prosecutrix was clearly minor, therefore, her willingness and consent is immaterial. Hence, the application may be rejected.

4. The prosecutrix is virtually present before this Court through Help Desk of DLSA Korba. She has objection in grant of bail to this applicant.

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

6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix, took her to places where he kept her in his custody in confinement and also had physical relation with her knowing well that she was minor, thus, not capable of giving consent.

7. Considered on the submissions. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and other circumstances, 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