

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3186 of 2021

- Fhatu Pathak S/o Ramesh Pathak, Aged About 22 Years, R/o Village -Silghat, P.S.- Berla, District - Bemetara Chhattisgarh, District : Bemetara, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through - P.S.- Urla, Raipur, District - Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Pushkar Sinha, Advocate.

For State/Non-applicant – Shri Anil Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-06-2021

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 24-04-2021 in connection with Crime No.178/2020 registered at Police Station – Urla, District - Raipur, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4, 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows that she was a consenting party and further the prosecutrix herself has filed an affidavit in support of this applicant before the Court below which was not considered at all. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that on the date of incident the age of the prosecutrix was only 16 years, therefore, she was not capable to give consent for such relationship. Hence, the application may be rejected.

4. Complainant has appeared before this Court on 17-06-2021 through Help Desk of this High Court on notice and made statement that she has no

objection in grant of bail to the 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 about two years prior to the lodging of the FIR when the age of the prosecutrix was only 16 years. Both of them performed marriage in a temple and thereafter they started living as husband and wife in the village, during which they had sexual relation. Hence, this case.

7. Considered on the submissions. Taking into consideration all the facts and circumstances and also the statement of no objection from the complainant side, 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