

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4500 of 2021

- Rakesh Jain, S/o Subhash Chand Jain, Aged About 35 Years, R/o Lalaji Ka Bada, Kummhar Muhalla, Guna, Police Station Kotwali, Guna, District : Guna, Madhya Pradesh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer Police Station Farasgaon, District-Kondagaon, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Arun Kumar Shukla, Advocate.
For State/respondent	: Mr, Shakti Singh, PL for State.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/08/2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.130/2020 registered at Police-Station- Farasgaon, District-Kondagaon(C.G.) for the offence punishable under Sections 363, 366a, 370(5), 376(2)(N), 467, 468, 471 of IPC and Sections 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since 07.01.2021. Charge-sheet has been filed. Similarly placed co-accused person namely-Govind Sharma has been granted bail by this Court.

This applicant has made no participation in the commission of offence of abduction, forgery and trafficking as alleged against other co-accused persons. The applicant has married the prosecutrix with belief that she was a major girl as it was impressed upon the applicant by the co-accused person. Therefore, her relationship with the prosecutrix according to his knowledge is valid, hence, no case is made out against this applicant. He may be granted bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that statement of prosecutrix under Section 161 CrPC, there is clear allegation against this applicant that the prosecutrix had informed about being a minor even then the applicant has forcibly raped her on more than one occasions. Hence, this application may be rejected.
4. The prosecutrix had virtually appeared before this Court through the 'Help Desk' of DLSA, Kondagaon on 4.8.2021. She had stated that she has objection in grant of bail to this applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that the prosecutrix and the minor prosecutrix in another case in Crime No.131/2020 was abducted and kept in confinement by co-accused Gayatri. Co-accused Mamta Agrawal and other accused persons have fabricated their Aadhar Cards and other, to show that the prosecutrix in this case and the other case both are major girls. Subsequent to that with the help of the another co-accused person Shivpal Singh Rajput they negotiated for match to marry off the prosecutrix and then the prosecutrix was forcibly

married to the applicant. Although, the prosecutrix was not willing for such marriage. Subsequent to that the applicant had sexually exploited the prosecutrix.

7. Considered on the submissions. As the facts present in the case itself shows, that the documents regarding the age of prosecutrix were fabricated by co-accused Mamta Agrawal, therefore, the submission in this regard from the applicant side has force. After considering that the co-accused person Govind Sharma, Shivpal Singh and Mamta Agrawal have been granted regular bail, hence, for these reasons, I feel inclined to allow the bail application of this applicant.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha