

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3806 of 2021

- Raju Mistri S/o Shri Ranjeet Mistri, Aged About 24 Years, R/o Village - P.V. 43, Jayshree Nagar, Police Station - Pakhanjur, District -North Baster Kanker Chhattisgarh., District : Kanker, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, through, Station House Officer, Police Station - Pakhanjur, District - North Baster Kanker Chhattisgarh., District : Kanker, Chhattisgarh

----Non-applicant

For Applicant – Shri Sunil Sahu, Advocate.

For Non-applicant/State – Shri Amit Kumar Verma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-07-2021

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 16-02-2021 in connection with Crime No.21/2021 registered at P.S. - Pakhanjur, District -North Baster Kanker, Chhattisgarh for the offence under Section 363, 366, 376, 496 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. The statement of the prosecutrix under Section 164 of the Cr.P.C. reveals that she was a willing and consenting party, 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 minor, therefore, her willingness and consent is immaterial. Hence, the application may be rejected.

4. Notice was issued to the complainant for a fixed date 19-07-2021 which was returned served, but there was no appearance and representation from

the complainant side on that date.

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

6. According to the prosecution case, the applicant and the prosecutrix was known to each other and were having affair. It is alleged that this applicant abducted the minor prosecutrix of age below 18 years and after performing marriage in a temple he had physical relation with her knowing well that she was unable to give consent being a minor. Hence, this case.

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