

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4298 of 2021

- Akash Nishad S/o Laxman Nishad, Aged About 22 Years, R/o Village Limauguda, Police Station Saraipali, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through: The Station House Officer, Police Station Saraipali, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

----Non-applicant

For Applicant – Shri Sunil Verma, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-08-2021

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 08-01-2021 in connection with Crime No.455/2020 registered at P.S. - Saraipali, District Mahasamund, Chhattisgarh for the offence under Section 363, 366, 376 (2) (ढ) of the IPC and Section 6 of Protection of Children from Sexual Offences Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 08-01-2021. The statement of the prosecutrix under Section 164 of the Cr.P.C. reflects 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 relationship with the applicant shall be deemed to be without consent or willingness. Hence, the application may be rejected.

4. Notice issued to the complainant was returned served for fixed date 29-

07-2021, but there was no appearance and no 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, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody for some time and exploited her sexually knowing well that she was minor and thus, incapable of giving consent.

7. Considered on the submissions. Taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C., I am of this view that the applicant should be granted bail.

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