

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4124 of 2021

- Budhram Sahu S/o. Ashok Sahu, Aged About 20 Years, R/o. Ward No. 02, Simga, P.S. Simga, District Balodabazar-Bhatapara (Chhattisgarh), District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through: Station House Officer, P.S. Simga, District Balodabazar Bhatapara (Chhattisgarh), District : Balodabazar-Bhathapara, Chhattisgarh

----Non-applicant

For Applicant – Shri Prasoon Agrawal, Advocate.

For Non-applicant/State – Shri Anil Tripathi, 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 10-04-2021 in connection with Crime No.160/2021 registered at P.S. - Simga, District Balodabazar - Bhatapara, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC r/w Section 4, 6 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 10-04-2021. Charge sheet has been filed. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows about love affair and consensual relationship of the applicant with the prosecutrix. The age proof on which the prosecution is relying is not conclusive being entry in the school register, which shall be challenged in trial. 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 prosecutrix had been of age below 16 years, therefore, her willingness and consent is immaterial. Hence, the

application may be rejected.

4. Notice was issued to the complainant which has been returned served, but there is no appearance and no representation.

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

6. According to the prosecution case, this applicant abducted the minor prosecutrix and then kept her in his custody, during which he had physical relation with her knowing well that she was unable to give consent being a minor.

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