

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4454 of 2021

- Yashwant Matware S/o Lekhram Matware, Aged About 21 Years, R/o Shergarh Chowki Jalbandha, District - Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer, Police of Police Station Utai, District - Durg Chhattisgarh, District : Durg, Chhattisgarh

----Non-applicant

For Applicant – Shri Purnendra Khichariya, Advocate.

For Non-applicant/State – Shri Ajay Kumarani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06-08-2021

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 08-02-2021 in connection with Crime No.37/2021 registered at P.S. - Utai, District Durg, Chhattisgarh for the offence under Section 363, 366, 376(2)(n) of the IPC and Section 5(३), 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 08-02-2021. The statement of the prosecutrix Section 164 of the Cr.P.C. clearly shows that the prosecutrix had willingly left with the applicant and the applicant married her in a temple and then he had physical relation with her consensually, therefore, there is no case present against this applicant. Hence, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor and was of age only about 17 years, therefore, her consent and willingness is immaterial. Hence, the application

may be rejected.

4. Notice was issued to the complainant, which was returned served for a fixed dated 29-07-2021, but there was no appearance and no representation on that date.

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

6. As per the prosecution case, this applicant abducted the minor prosecutrix, kept her in his custody and also had physical relation with her knowing well that she was minor and thus unable to give consent.

7. Considered on the submissions. Taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C. regarding which submission has been made by the applicant's counsel, 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