

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4563 of 2021

- Khilawan Bandhe S/o Narayan Bandhe, Aged About 24 Years, R/o Machanpar Chowki, Tumdibod Thana Lalbagh, District- Rajnandgaon, Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through SHO, Police Station Utai, District- Durg, Chhattisgarh, District : Durg, Chhattisgarh

----Non-applicant

For Applicant – Mr. Shalvik Tiwari, Advocate.

For Non-applicant/State – Ms. Shivali Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-08-2021

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 24-05-2021 in connection with Crime No.133/2018 registered at P.S. - Utai, District- Durg, Chhattisgarh for the offence under Section 363, 366, 376, 376 (2) (N) of the IPC and Section 4, 6, 5(L) of POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. The prosecutrix had love affair with the applicant. As the prosecutrix was being tortured in her parental house, therefore, she left and came to the applicant and she wanted to marry him. The applicant asked her to wait till she attains the age of majority. Subsequent to which, after majority of the prosecutrix both of them have married and they are living together. The prosecutrix is also having pregnancy of five months. Therefore, whole case is of consensual relationship and no case is made out against the applicant. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

submitting that on the date of lodging of the FIR the prosecutrix was minor, therefore, offences registered against the applicant are made out. 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. Complainant, father of the prosecutrix has lodged the missing report on 19-04-2018 that his daughter, minor prosecutrix has gone missing. The prosecutrix was then recovered on 24-05-2021, subsequent to which on the basis of the statement given by her, offences of abduction and rape have been registered against the applicant.

7. Considered on the submissions. The statement of the prosecutrix given under Section 164 of the Cr.P.C. confirms the submission made by the applicant's counsel, hence, under these 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