

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4561 of 2021

- Gajju Khusharo S/o Jhuru Khusharo, Aged About 20 Years, R/o Ward No.7, Kanhari, Police Station - Rengakhar, District - Kabirdham (Chhattisgarh), District : Kawardha (Kabirdham), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Station - Rengakhar, District - Kabirdham (Chhattisgarh), District : Kawardha (Kabirdham), Chhattisgarh

----Non-applicant

For Applicant – Mr. Dharmesh Srivastava, 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 15-04-2021 in connection with Crime No.03/2021 registered at P.S. - Rengakhar, District - Kabirdham, Chhattisgarh for the offence under Section 363, 366, 376(2)(b)(n) of the IPC and Section 4 and 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 15-04-2021. The prosecutrix and the applicant were having affair, they intended to marry, therefore, they eloped and married and were living together when the police had arrested the applicant, this is reflected in the statement of the prosecutrix given under Section 164 of the Cr.P.C. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the age of the prosecutrix had been only 15 years and 7 months on the date of incident, therefore, her willingness and consent is immaterial.

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, the applicant had affair with the minor prosecutrix of age below 16 years and he was also having physical relation with her, as this was disclosed to the parents of the minor prosecutrix, they objected. Subsequent to which, the applicant abducted the minor prosecutrix, kept her in his custody and exploited her sexually after performing marriage with her.
7. Considered on the submissions. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and other circumstances present, 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