

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5561 of 2021

- Dineshwar Joshi S/o Radhelal Joshi, Aged About 19 Years, R/o Indira Colony, Baloda Bazar, Thana-City Kotwali, District- Baloda Bazar, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh Through- Police Station- City Kotwali, District- Baloda Bazar, Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

----Non-applicant

For Applicant – Shri Samir Singh, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

02-09-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 20-11-2020 in connection with Crime No.756/2020 registered at P.S. - City Kotwali, District- Baloda Bazar, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4 & 6 of Protection of Children from Sexual Offences Act.

2. It is submitted on behalf of the applicant, that this is second application filed by the applicant before this Court for grant of regular bail. His first bail application, MCRC No.9484/2020 was dismissed as withdrawn on 25-03-2021 with liberty to file repeat application after examination of the prosecutrix. Learned counsel for the applicant submits that the applicant has been falsely implicated. He is in jail since 20-11-2020. The prosecutrix has been examined in the trial and she has made admissions showing that she and the applicant both were having affair, therefore, the relationship of the applicant with the prosecutrix was consensual. Further, the applicant has also successfully challenged the ground of minority of the prosecutrix in the trial which is

reflected from the statement of the witnesses recorded in the trial. Therefore, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor. Further, she is not a hostile witness in the Court. She has made statement in her examination-in-chief that she was raped by the applicant. Therefore, there is no case present for grant of bail.

4. Notice issued to the complainant has been returned served for today, 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, it is alleged that, this applicant abducted the minor prosecutrix and kept her in his custody for some time, during which he physically and sexually exploited the minor prosecutrix knowing well that she was minor and thus incapable of giving consent.

7. Considered on the submissions. After taking into consideration the facts and circumstances of the case and also the Court statement given by the prosecutrix and the fact that the trial is still pending, 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