

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5721 of 2020

Suresh Kumar, S/o Devi Prasad Dinkar, Aged About 20 Years, R/o Village Kadari, Police Station Baradwar, District- Janjgir- Champa (C.G.)

-- Applicant

Versus

State of Chhattisgarh, Through: The District Magistrate, District- Janjgir- Champa (C.G.)

--- Respondent

For Applicant : Mr. Rajeev Kumar Dubey, Advocate.
For State/ Respondent : Mr. Devendra Pratap Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11/01/2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No. 263/2020, registered at Police Station- Baradwar, District- Janjgir-Champa (C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 5 (A), 11(3), 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits, that the applicant is in jail since 31.07.2020 and has been falsely implicated in this case. The minority of the prosecutrix is disputed, according to the material placed in the charge-sheet itself. The school register shows that her date of birth is 11.01.2004. The Aadhar Card

shows that her date of birth is 07.11.2005, whereas, the prosecutrix herself has stated in her statement under Section 161 & 164 of the Cr.P.C. that her age is above 17 years. Father of the prosecutrix has given affidavit in support of the applicant, in which, he mentioned that the prosecutrix was of age about 19 years on the date of incident. The allegation against the applicant is totally false. The prosecutrix had willingly accompanied with the applicant and resided with him. They have performed marriage and also the prosecutrix has given birth to a child, therefore, no case is made out against the applicant. Hence, it is prayed that this applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application submitting that age of the prosecutrix has been below 18 years in all respect, therefore, her consent or willingness is immaterial. The evidence is present that the applicant committed the offences as alleged against him, therefore, he is not entitled for grant of bail. Hence, the application for grant of bail may be rejected.
4. Samelal Bareth- complainant and father of the prosecutrix, is present before this Court and he has made statement that he has no objection in grant of bail to this applicant
5. Heard counsel for both the parties and perused the records.
6. As per case of the prosecution, it is alleged that the applicant abducted the minor prosecutrix of age about 14 years. The prosecutrix was sexually exploited by him, because of which, she became pregnant. Subsequent to her recovery by police,

she has given statement mentioning about her relationship with the applicant, regarding which, FIR has been lodged.

7. Considered on the submissions and the facts present in this case. The statement regarding age of the prosecutrix on which, there are different proofs regarding her date of birth and at present, there is also an affidavit given by her father in support of the applicant, under these circumstances, I am of this view that it would be proper to release the applicant on regular bail, hence, I feel inclined to grant bail to the applicant in this case.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge