

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5901 of 2021

- Khelawan Markandey S/o Latel Markandey, Aged About 20 Years, R/o Village Nevdha, P.S. Simga, Distt.- Balodabazar Bhatapara (Chhattisgarh), District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through - Police Station - Simga, Distt.- Balodabazar Bhatapara (Chhattisgarh), District : Balodabazar-Bhathapara, Chhattisgarh

----Non-applicant

For Applicant – Mr. Anil Singh Rajput, Advocate.

For Non-applicant/State – Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-09-2021

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 02-04-2021 in connection with Crime No.98/2021 registered at P.S. - Simga, Distt.- Balodabazar Bhatapara, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4, 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 02-04-2021. The statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. reflects about the love affair present between the applicant and the prosecutrix and that they have willingly traveled to places, resided together and also had physical relation. Therefore, there is no case present against this applicant. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the age of the prosecutrix had been only 16 years and 2 months on the date of incident, therefore, her willingness and consent is

immaterial. Hence, the application may be rejected.

4. The prosecutrix is physically present before this Court and she has made a statement of no objection in grant of bail to the applicant.

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

6. The prosecution case is this, that this applicant abducted the minor prosecutrix and took her to places where he kept her in his custody and had physical relation with her knowing well that she was minor and thus incapable of giving consent for such relation. Hence, this case.

7. Considered on the submissions. Looking to the statement given by the prosecutrix under Section 164 of the Cr.P.C. and other 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