

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6008 of 2021

- Roshan Lal Nirmalkar, S/o Bihari Nirmalkar, Aged About 22 Years, R/o Gandhi Gorkapar, Police Station Gunderdehi, District Balod, Chhattisgarh., District : Balod, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through, S.H.O. Police Station Gunderdehi, District - Balod, Chhattisgarh., District : Balod, Chhattisgarh

----Non-applicant

For Applicant – Mr. B.P. Singh, Advocate.

For Non-applicant/State – Ms. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21-09-2021

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 03-10-2020 in connection with Crime No.358/2017 registered at Police Station - Gunderdehi, District - Balod, Chhattisgarh for the offence under Section 363, 366, 376(2)(n) of the IPC and Section 4-5 (ढ)/6 of POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 03-10-2020. The prosecutrix has been examined in the trial and she has not supported the prosecution case. Therefore, there is no case present against this applicant. Hence, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor on the date of incident and there are other witnesses yet to be examined in the trial who may establish the prosecution case. Therefore, the application may be rejected.

4. The prosecutrix had virtually appeared before this Court through the

Help Desk of DLSA Balod on 20-09-2021 on notice and stated that she has no objection in grant of bail to the applicant.

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

6. According to the prosecution case, there is allegation that this applicant abducted the minor prosecutrix, kept her in his custody and exploited her sexually knowing well that she was minor and thus incapable of giving consent.

7. Considered on the submissions. Perused certified copy of the deposition of the prosecutrix which shows that the prosecutrix has been declared hostile by the prosecutor for not supporting the prosecution case. Therefore, looking to this development in trial, 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