

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6103 of 2021

- Harmani Sinha S/o Asharam Sinha, Aged About 26 Years, R/o Village-Mongrapali, Police Station- Baghbahra, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Baghbahra, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Non-applicant

For Applicant – Mr. Shubhank Tiwari, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

15-09-2021

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 25-07-2021 in connection with Crime No.37/2018 registered at P.S. - Police Station Baghbahra, District- Mahasamund, Chhattisgarh for the offence under Section 363, 366, 376 (2) (b) 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 25-07-2021. The statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. clearly shows that she was a willing and consenting party. The ground of minority of the prosecutrix shall be challenged in the trial by the 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 on the date of incident the prosecutrix was of age below 16 years, therefore, her consent and willingness is immaterial. Hence, the

application may be rejected.

4. The prosecutrix is virtually present through Help Desk of DLSA Mahasamund on notice. 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, this applicant abducted the minor prosecutrix of age below 16 years on 29-01-2018. Subsequent to that, the applicant kept the minor prosecutrix in his custody in Raipur and continuously exploited her sexually until she was recovered on 25-07-2021.

7. Considered on the submissions. Looking to the facts and circumstances present and also that the prosecutrix herself has no objection in grant of bail to the applicant, 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