

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6242 of 2021

- Rahul Giri Goswami S/o Sohan Giri Goswami, Aged About 21 Years, R/o Sakin, New Changorabhata, 65 Ghar, House of Manoj Nayak, Police Station D.D. Nagar, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station D.D. Nagar, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

----Non-applicant

For Applicant – Mr. H.A.P.S. Bhatia, Advocate.

For Non-applicant/State – Ms. Shivali Dubey, Panel Lawyer.

Mr. Aditya Khare, Advocate for the victim/prosecutrix.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-09-2021

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 18-06-2021 in connection with Crime No.146/2021 registered at P.S. - D.D. Nagar, District- Raipur, Chhattisgarh for the offence under Section 363, 366, 376, 376(2)(n) of the IPC and Section 4, 6 of the POCSO Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 18-06-2021. The FIR lodged is totally false. The prosecutrix is willing and consenting party which is reflected from her statement under Section 164 of the Cr.P.C. The applicant and the prosecutrix both have married, however, mother of the prosecutrix is objecting to this marriage. The applicant has thus not committed any offence. Therefore, it is prayed that he 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, therefore, her

willingness and consent is immaterial.

4. The complainant and the prosecutrix both are virtually present through Help Desk of DLSA Raipur. The mother of the prosecutrix has objection in grant of bail to the applicant, however, the prosecutrix herself has no objection in grant of bail to the applicant.

5. Learned counsel appearing on behalf of the prosecutrix submits that the prosecutrix herself has no objection as she has performed marriage with the applicant and also that she is not minor. Therefore, the application may be allowed.

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

7. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody and exploited her sexually knowing well that she was minor and incapable for giving consent. Hence, this case.

8. Considered on the submissions. Taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C. and the other circumstances that are present and also that the prosecutrix herself has no objection, I feel inclined to allow this application.

9. 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge