

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7385 of 2020

- Sanjan Kumar S/o Sh. GajendraRajak, Aged About 19 Years, O/c- Student, R/o- Village KhasrakaTelwa, Ward No.4-, NohattaSaharsa, Bihar- 852123

---- Applicant

Versus

- State Of Chhattisgarh, Through- Police Station Koni, District Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Himanshu Pandey, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Govt. Advocate.

Shri Salvik Tiwari, Advocate for the complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-01-2021

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 in connection with Crime No.362/2019 registered at Police Station – Koni, District Bilaspur, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The minority of the prosecutrix is disputed and the proof of age on which the prosecution relies shall be challenged by the applicant in trial. Otherwise, the prosecutrix has given statement under Section 164 of the Cr.P.C. very clearly that she had herself invited the applicant and eloped with him, subsequent to which, she married him and resided with him as husband and wife. Therefore, no case is made out against this applicant. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that according to the documentary evidence present, age of the prosecutrix was clearly below 16 years and therefore, any physical relation between the applicant and the prosecutrix amounts to commission of offence of

rape. Therefore, the application may be rejected.

4. Learned counsel appearing for the complainant submits that the complainant has no objection in grant of bail to the applicant. Complainant – Kilawan Netam has appeared before this Court on 05-01-2021 and had made submission that he has no objection in grant of bail.

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 of age about 15 years and then by keeping her in his custody in Delhi he had physical relation with her on numerous occasions.

7. Considered on the submissions and facts of the case. After looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and the statement of no objection given by the complainant side, 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