

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6559 of 2021

- Kabir Kuldeep S/o Dwarika Prasad, Aged About 25 Years, Caste-Chik, Resident of Bataikela, Police Station-Kansabel, District-Jashpur (Chhattisgarh), District : Jashpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through : Station House Officer, Police Station-Kansabel, District Jashpur (Chhattisgarh), District : Jashpur, Chhattisgarh

----Non-applicant

For Applicant – Shri Manoj Chauhan, Advocate.

For Non-applicant/State – Shri Amit Kumar Verma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20-09-2021

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 09-08-2021 in connection with Crime No.72/2019 registered at Police Station - Kansabel, District Jashpur, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4, 6 of the 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 09-08-2021. Charge sheet has been filed. The applicant has not committed any offence. The prosecutrix in this case was clearly a willing and consenting party and her willingness and consent is reflected from her statement under Section 164 of the Cr.P.C. as she without any objection went with the applicant to different places and stayed with him for a long time without raising any alarm, therefore, it is a consent by conduct. Hence, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix had been of age 15 years only on the date of

incident, therefore, her consent and willingness is immaterial. Hence, the application may be rejected.

4. The prosecutrix is virtually present through Help Desk of DLSA Jashpur. She has 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, took her to different places, Raigarh, Raipur and Mumbai where both of them stayed for some time and during this period the applicant also exploited the minor prosecutrix sexually despite her refusal and also knowing that she was minor and incapable of giving consent. Hence, this case.

7. Considered on the submissions. Taking into consideration the facts and circumstances present in the case and the statement of the prosecutrix given under Section 164 of the Cr.P.C. and also for the reason that there is likelihood of delay 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