

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6735 of 2021

- Aryan Sai @ Rahul S/o Chandrakumar Sai, Aged About 19 Years, R/o Village Lakdiya, Police Station Palari, District Baloda Bazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through: Station House Officer, Police Station Bhatapara (Town), District Baloda Bazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

----Non-applicant

For Applicant – Mr. Rakesh Kumar Manikpuri and Mr. S.P. Sahu, Advocates.
For Non-applicant/State – Ms. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-10-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 13-01-2021 in connection with Crime No.477/2020 registered at P.S. - Bhatapara (Town), District Baloda Bazar Bhatapara, 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 this is second bail application filed by the applicant before this Court. His first bail application, MCRC No.1096/2021 was dismissed as withdrawn on 19-03-2021. Learned counsel for the applicant submits that the applicant has been falsely implicated. He is in jail since 13-01-2021. The prosecutrix has been examined in the trial and she has not supported the prosecution case. Therefore, there is nothing left in the case against this applicant. Hence, 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 of age below 16 years and therefore, she being minor was incapable to give consent for any act. There is evidence present in the case against this applicant. Hence, the application may be rejected.

4. Notice issued to the complainant has been returned served for today, but there is no appearance and no representation.

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

6. According to the prosecution case, 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 she has not supported the prosecution case, because of which she was declared hostile by the prosecutor, She has again denied all the suggestions given by the prosecutor. Hence, looking to this development in trial against this 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