

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6875 of 2021**

Sachin Sahu S/o Santosh Sahu Aged About 25 Years R/o Ward No. 6,
Nishadpara Mohalla, Police Station- Mohla, District- Rajnandgaon CG

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station,
Mohla, District Rajnandgaon CG

---- Non-applicant

For applicant	Mr. Gautam Khetrapal, Adv.
For non-applicant/State	Ms. Shivali Dubey, PL.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****12-11-2021**

1. As per applicant, this is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 10/2021 registered in police station Mohla, Distt. Rajnandgaon, (CG) for offence punishable under Section 363, 366, 376(2)(ढ) of the Indian Penal Code (in short 'IPC'), Section 4 and 6 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act') and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short 'SCST Act').
3. Brief facts of the case are that the applicant and the victim/prosecutrix who is minor girl and belongs to scheduled tribe community knew each other before the date of incident and also had love affair. On 13-1-2021, applicant abducted minor victim, knowingly that she is minor and belongs to scheduled tribe community, took her to various places and sexually abused her repeatedly. On the report lodged by father of victim/ prosecutrix at PS Mohla, crime under Section 363 of the IPC was registered against unknown person and after recovery of victim/ prosecutrix on 24-5-2021 from Arapalli (Telangana) and after due investigation, charge sheet under Section 363, 366, 376(2)(ढ) of the IPC and Section 4 and 6 of the POCSO Act and Section 3(2)(v) of the SCST Act was filed against the applicant.
4. Learned counsel for the applicant argued that the applicant has been falsely implicated in this case. He has neither abducted the victim/ prosecutrix nor committed rape with her. In fact, the applicant and victim/ prosecutrix had love affair and she herself had gone with the applicant. He next argued that at the time of incident, victim

prosecutrix was not minor. Even with regard to date of birth of the prosecutrix, there is contradictory document, because as per Adhar Card of the prosecutrix, her date of birth is 1-1-2005, whereas as per her school certificate, her date of birth is 25-1-2004. Thus, her age at the time of incident is highly disputed fact, which would be contested by the applicant during trial. It is a matter of consent and as per applicant, victim was not minor at the time of incident. Charge sheet has been filed and he is in jail since 25-5-2021. Therefore, he may be released on bail.

5. On the other hand, the State Counsel opposed the bail application and submitted that the applicant knowingly that victim was minor and belongs to scheduled tribe community, abducted him, on the pretext of marriage repeatedly committed rape with her. Hence, his bail application may be rejected.
6. Victim prosecutrix and her father appeared before this Court through VC on 20-10-2021 and they raised objection to the bail application of the applicant.
7. I have heard counsel for both the parties and perused the case diary and material available on record.
8. Considering the facts and circumstances of the case, also taking into consideration that there was love affair between the applicant and the prosecutrix, although as per charge sheet, she was minor at the time of incident, but there is contradictory documents with regard to date of birth of prosecutrix, the applicant is in jail since 25-5-2021, I feel inclined to allow the bail application. Therefore, the application is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.
9. CC as per rules.

Sd/-
(N.K. Chandravanshi)
Judge