

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7526 of 2020

Shiva Yadav, S/o Shri Lakhan Yadav, Aged About 27 Years, R/o Behind Club Chowk, Basantpur, Police Station Basantpur, District- Rajnandgaon (C.G.)
-- Applicant

Versus

State of Chhattisgarh, Through:- Police Station Basantpur, District- Rajnandgaon (C.G.)
--- Respondent

For Applicant : Mr. Arvind Kumar Dubey, Advocate.

For State/ Respondent : Mr. Devendra Pratap Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04/01/2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No. 242/2020, registered at Police Station- Basantpur, District- Rajnandgaon (C.G.) for the offence punishable under Section 363, 366, 376 (2)(N) of IPC and Section 8, 5(L), 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 21.07.2020 and has been falsely implicated in this case. The proof regarding her date of birth shall be challenged by the applicant in the trial otherwise, the prosecutrix had been consenting party throughout. No case is made out against the applicant. Hence, it is prayed that this applicant may be enlarged on bail.
3. On the other hand, learned counsel for the State opposes the bail application submitting that the prosecutrix was minor on the date of incident and further, the Sessions Judge has observed in the bail rejection order that age of the prosecutrix was 15 years only,

therefore, looking to the allegation present against this applicant, he is not entitled for grant of bail. Hence, the application for grant of bail may be rejected.

4. Heard counsel for both the parties and perused the records.
5. As per case of the prosecution, it is alleged that the applicant abducted the minor prosecutrix of age about 16 years and 7 months and then, raped her. The incident continued for sometime because of which, the prosecutrix became pregnant and when pregnancy was disclosed, FIR has been lodged against the applicant.
6. Considered on the submissions and the facts present in this case. The date of birth of the prosecutrix in the case diary is 10.08.2003, therefore, age of the prosecutrix at the time of incident was above 16 years. Looking to the submissions made and the other circumstances present, I am of this view that it would be proper to release the applicant on regular bail, hence, I feel inclined to grant bail to the applicant in this case.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge