

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7944 of 2020

- Umend Kumar Bharti S/o Sahetru Bharti, Aged About 22 Years, Resident of Village Rohansi, P.S. Palari Distt. Balodabazar (Chhattisgarh), District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through the Police Station Palari, Balodabazar (Chhattisgarh), District : Balodabazar-Bhathapara, Chhattisgarh

---- Non-applicant

For Applicant – Shri S.S. Baghel, Advocate on behalf of Shri Anjinesh Shukla, Advocate.

For Non-applicant/State – Shri B.P. Banjare, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

14-01-2021

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 04-09-2020 in connection with Crime No.481/2019 registered at Police Station – Palari, Balodabazar, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix was not minor. The statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. reflects about love affair, willingness and relationship based on consent between the applicant and the prosecutrix. Hence, no case is made out against the applicant. Therefore, it is prayed that the application be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor on the date of incident, therefore, any consent or willingness on her part is immaterial. Hence, the application may be rejected.

4. Notice was issued to the complainant, on which appearance was made

on 06-01-2021 by the prosecutrix herself and she stated that she has no objection in grant of bail to the applicant.

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 on 24-11-2019, subsequent to which the prosecutrix was kept in his custody in Rajnandgaon, Raipur and then in his own village where she was subjected to sexual intercourse which amounts to commission of offence of rape.

7. Considered on the submissions. The statement of the prosecutrix discloses about the love affair, her willingness and consent made with applicant and residing in places with him and having physical relation with him. She also stated about the marriage with the applicant and living together with him and about her pregnancy. Hence, looking to these facts and no objection made by the prosecutrix, 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