

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.7699 of 2020

- Siyaram S/o Sunderlal Aged About 28 Years R/o Balgahna Tola, Police Station Gourela, District Gourela Pendra Marwahi Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Gourela, District Gourela Pendra Marwahi Chhattisgarh

---- Non-applicant

For Applicant : Mr. Shikhar Bakhtiyar, Advocate.

For Non-applicant/State : Mr. Adil Minhaj, Govt. Advocate.

For prosecutrix : Mr. Anshul Tiwari, Advocate.

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

05-01-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 09.10.2020, in connection with Crime No.325/2016, registered at Police Station- Gorela, District- Gourela- Pendra- Marwahi, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C. and Section 04 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the case. On the date of incident, the prosecutrix was not minor as her actual date of birth is 09.08.1998. The prosecutrix has been willing and consenting party, who went with the applicant and resided in Gujarat for about more than four months without raising any objection or alarm until she came back to her family in the Chhattisgarh, then under the influence of her parents, the prosecutrix has given false statement against the applicant making false allegations against him. The fact is this that the applicant and the prosecutrix both have married on 18.05.2019 and the prosecutrix was

residing with her husband, the applicant, who was then arrested on 09.10.2020 and placed in detention. The prosecutrix has no objection in grant of bail to the applicant regarding which she has filed an affidavit, therefore, it is prayed that this application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has made a categorical statement against the applicant under Section 161 and 164 of Cr.P.C. making allegations of the commission of offences of abduction and rape by the applicant, therefore, no case is made out for grant of bail.
4. The prosecutrix, who has appeared before this Court, is identified by learned counsel Mr. Anshul Tiwari. She has made statement 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. According to the prosecution case, the applicant abducted the prosecutrix and took her to Gujarat, where he kept her in confinement for about four months during which the minor prosecutrix was sexually exploited by him on a number of occasions. The prosecutrix then finding opportunity to flee from the confinement, made use of it and came back to her village. Subsequent to which, her statement has been recorded in which she has made allegations against the applicant. Hence, this case.
7. Considered on the submissions, there appears to be a dispute regarding the age of prosecutrix and about her minority on the date of incident. Although, her statement in the investigation is against the applicant but at present, the prosecutrix is before this Court making a statement of no objection in favour of this applicant. The investigation in this case is complete and the case is pending for trial, therefore, under these circumstances, 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, on condition as imposed by the concerned Court.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika