

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8065 of 2020

- Malik Joshi S/o Govind Joshi, Aged About 21 Years (not mention in impugned order), R/o Sanik Sahaspur, Lohara, Police Station Lohara, District - Kabirdham Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through - Police Station Tilda Newra - District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Hemant Kesharwani, Advocate.

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

Shri K.K. Dewangan, Advocate for the complainant.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

06-01-2021

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 15-10-2020 in connection with Crime No.507/2019 registered at Police Station – Tilda Newra, District - Raipur, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 5 & 6 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. Her statement given in the investigation clearly reflects about affair and relationship of her with the applicant. Therefore, no offence has been committed. The applicant is in jail since 15-10-2020. Hence, it is prayed that he may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the age of the prosecutrix was below 18 years, therefore, any consent or willingness on her part is of no consequence and the case is made out against the applicant. Therefore, the application may be rejected.

4. Learned counsel appearing for the complainant submits that the complainant side 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 of age below 18 years and then he continuously kept her in his custody in confinement until she was recovered on 15-10-2020 by the police. It is alleged that during this period the applicant exploited the prosecutrix sexually by having physical relation with her on numerous occasions. Hence, this case.
7. Considered on the submissions and the facts present in the case. As the applicant intends to challenge the ground of minority in the trial and it is a statement of the prosecutrix herself that she has married the applicant and she is pregnant at present, hence, for these reasons 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