

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7857 of 2020

- Dilip Nagesh, S/o Shri Reku Nagesh, Aged About 25 Years, R/o Dhaurpur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through - Station House Officer, Police Station Lundra, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Non-applicant

For Applicant – Shri Ajeet Kumar Yadav, Advocate.

For Non-applicant/State – Shri Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-01-2021

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 04-06-2019 in connection with Crime No.167/2018 registered at Police Station – Lundra, District Surguja, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4 of the 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. False FIR has been lodged because of enmity with the complainant side. The prosecutrix has given statement under Section 164 of the Cr.P.C., according to which, the only allegation against the applicant is regarding offence of abduction and taking her to different places and there is no allegation of rape. The applicant is in jail since 04-06-2019. Therefore, 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 on the date of incident had been only 13 years and 3 months and she has stated in her statement under Section 161 of the Cr.P.C. alleging commission of offence of rape by the applicant.

Therefore, the applicant is not entitled for grant of bail.

4. Complainant Holsay and the prosecutrix both are present before this Court on notice. They have submitted that they have 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 the minor prosecutrix was abducted by this applicant and taken to different places where by keeping her in his custody he has exploited her sexually by having physical relation with her.

7. Considered on the submissions and facts of the case. The statement of the prosecutrix under Section 164 of the Cr.P.C. appears to be different in which there is no allegation regarding commission of offence of rape. At the same time there is statement of no objection made by the complainant side. Therefore, 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