

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8118 of 2020

Shiba Vishwal, S/o Heeralal Vishwal, Aged About 20 Years, R/o Salhepali, Thana- Ambabhouna, District- Bargarh Odissa

-- Applicant

Versus

State of Chhattisgarh, Through the Police Station- Pusour, District- Raigarh (C.G.)

--- Respondent

For Applicant : Mr. Sanjay Agrawal, Advocate.

For State/ Respondent : Mr. B.P. Banjare, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07/01/2021

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. 242/2019, registered at Police Station- Pusour, District- Raigarh (C.G.) for the offence punishable under Section 363, 376 of IPC and Section 4, 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 09.10.2020 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. The statement given by the prosecutrix under Section 164 of the Cr.P.C. shows that she had willingly accompanied with the applicant and resided with him all the time. Her physical relation

with the applicant was consensual. 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, statement of the prosecutrix under Section 161 of the Cr.P.C. clearly alleges against the applicant regarding commission of offences of abduction and rape, therefore, 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 from 03.12.2019. Father of the prosecutrix lodged missing report on 04.12.2019. The prosecutrix was recovered from custody of the applicant on 20.08.2020, subsequent to which, she has given statement making allegation against the applicant regarding commission of offences.
6. Considered on the submissions and the facts present in this case. As it appears that the statement of the prosecutrix under Section 164 of the Cr.P.C. is different from her statement given under Section 161 of the Cr.P.C., therefore, under these circumstances, 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

Arun