

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.8102 of 2020

- Bhupeshwar Dhivar S/o Shri Krishna Kumar Dhivar Aged About 19 Years (Age Not Mentioned In The Rejection Order Of The Learned Court Below), Resident Of Village Mohadi, Police Station Dharsiwa, District Raipur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Dharsiwa, District Raipur Chhattisgarh

---- Non-applicant

For Applicant : Mr. C.R. Sahu, Advocate.

For Non-applicant/State : Mr. B.P. Banjare, Dy. Govt. Advocate.

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

07-01-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 11.02.2020, in connection with Crime No.45/2020, registered at Police Station- Dharsiwa, District- Raipur, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C. and Section 06 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the case. The statement of prosecutrix under Section 161 of Cr.P.C. does not make any allegation against this applicant, however, there is some development in her statement under Section 164 of Cr.P.C. which appears to be given under the influence of her parents. The allegations against the applicant are totally false and he is in jail since 11.02.2020. Charge-sheet has been filed after completion of investigation, 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 statement of prosecutrix under Section 161 of Cr.P.C. is sufficient to make out the commission of offences by this applicant. Hence, this application may be rejected.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, the prosecutrix and the applicant were acquainted to each other. On 28.01.2020, the applicant abducted the minor prosecutrix and took her to places where during their stay, he had physical relation with the minor prosecutrix, which amounts to commission of offence of rape. Hence, this case.
6. Considered on the submissions and the facts present in the case, it appears that the prosecutrix has given a developed statement under Section 164 of Cr.P.C. and there are also other circumstances present, therefore, I feel inclined to allow this application.
7. 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.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge