

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8150 of 2020

- Santosh Kumar Yadav Son of Birju Yadav, Aged About 28 Years, Caste Yadav, R/o. Village Dataud, Police Station and Tahsil Jaijaipur, District Janjgir-Champa (Chhattisgarh), District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through The District Magistrate, Janjgir, District Janjgir-Champa (Chhattisgarh), District : Janjgir-Champa, Chhattisgarh

---- Non-applicant

For Applicant – Shri Ishwar Jaiswal, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-01-2021

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 30-08-2020 in connection with Crime No.05/2019 registered at Police Station – Jaijaipur, District Janjgir-Champa, Chhattisgarh for the offence under Section 376, 363, 366 of the IPC and Section 4 & 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix in this case is not minor, although the prosecution reliance of school register shows that age of the prosecutrix was below 16 years on the date of incident. The prosecutrix herself claims to be of age 21 years and making such statement she has filed affidavit before the Sessions Court which has not been appreciated. The prosecutrix has married to the applicant and also she has no objection in grant of bail to the applicant. Therefore, it is prayed that the applicant be enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor, therefore, she was incapable of giving any consent, hence her relationship with the applicant amounts to

commission of offence of rape by the applicant. Therefore, the application may be rejected.

4. The prosecutrix along with her mother Yashoda is present before this Court on notice and she has stated that she has no objection in grant of bail to the applicant. She also states that she has married with the applicant.

5. Heard learned counsel for the parties and perused the case diary.

6. The prosecution case is this, that the applicant abducted the minor prosecutrix and then he took her to various places where by keeping her in his custody he has performed marriage and then exploited her sexually on numerous occasions. Hence, this case.

7. Considering on the submissions and facts of this case and also the statement made by the prosecutrix and her mother before this Court, 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