

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8597 of 2020

- Shivprakash S/o Kunwar Sai Aged About 18 Years, R/o Village Benoi Post Girhuldi P.S. Sitapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Kamleshwarpur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

----Non-applicant

For Applicant – Shri Nishi Kant Sinha, Advocate.

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

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

19-01-2021

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 28-05-2020 in connection with Crime No.26/2020 registered at Police Station - Kamleshwarpur, District Surguja, Chhattisgarh for the offence under Section 366, 376 of the IPC and Section 3, 4 of POCSO Act, 2012.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix has not made any allegation of rape against this applicant in her statement under Section 164 of the Cr.P.C. The applicant is in jail since 28-05-2020. 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 prosecutrix has alleged the commission of offence of rape by this applicant in her statement under Section 161 of the Cr.P.C., hence, the application may be rejected.

4. Notice was issued to the complainant which has been returned served,

but there is no appearance and no representation.

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 and then by keeping her in his custody he exploited her sexually by having forceful sexual relation with her.

7. Considered on the submissions and facts of the case. It is found that the statement of the prosecutrix under Section 164 of the Cr.P.C. does not make any allegation of rape against this applicant, hence, under these circumstances 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