

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.8636 of 2020

- Shahajaad Ali @ Manish S/o Alauddin Aged About 22 Years R/o Village Bhakurabhitti, Thana Baliyarpur District Chapara (Bihar), At Present Add. Chiraipani Road, Kinare, Thana Kotara Road, Raigarh District Raigarh Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Thana Kotara Road Raigarh, District Raigarh Chhattisgarh

---- Non-applicant

For Applicant : Mr. Sanjay Agrawal, Advocate.

For Non-applicant/State : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

01-03-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 28.10.2020, in connection with Crime No.124/2020 registered at Police Station-- Thana- Kotara Road, Raigarh, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C. and Sections 04 and 06 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. The statement of prosecutrix under Section 161 and 164 of Cr.P.C. reads that she has been a willing and consenting party, hence, there is no case against this applicant. Therefore, it is prayed that this applicant may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application

and submits that the prosecutrix was of age below 16 years, therefore, any consent or willingness on her part is immaterial, hence, this application may be rejected.

4. The notice issued to the complainant and he gave appearance before this Court on 11.02.2021 and stated that he has objection in grant of bail to the applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and then by keeping her in his custody, he exploited her sexually knowing well that she was not capable of giving a valid consent. Hence, this case.
7. Considered on the submissions and also looking to the statement of the prosecutrix given under Section 161 and 164 of Cr.P.C. and also other circumstances, I feel inclined to allow this application.
8. Consequently, this application filed by the applicants 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 two local surety each 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