

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.8839 of 2020

- Lilesh Dhruw S/o Pawan Dhruw Aged About 24 Years Resident Of Village Kauhakuda, Police Station And Tahsil Pithora, District Mahasamund Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pithora, District Mahasamund Chhattisgarh

---- Non-applicant

For Applicant : Ms. Pushplata Khalkho, Advocate.

For Non-applicant/State : Mr. B.P. Banjare, Dy.G.A.

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

03-03-2021

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 13.10.2020, in connection with Crime No.249/2020 registered at Police Station-- Pithora, District- Mahasamund, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C. and Sections 4 and 6 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 164 of Cr.P.C. discloses about the affair, the willingness and the consensual relationship of the prosecutrix with the applicant and there is no case against this applicant. Hence, it is prayed that this applicant may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application

and submits that on the date of incident, the prosecutrix was aged about 17 years and 02 months only, therefore, any willingness or consent on her part is immaterial. Therefore, it is prayed that this application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, this applicant abducted the minor prosecutrix from her lawful guardian and then, by keeping her in his custody and on pretext of marrying her, he had physical relationship with her continuously, knowing well that she was not capable of giving a valid consent. Hence, this case.
6. Considered on the submissions and the statement of prosecutrix under Section 164 of Cr.P.C. and also looking to this statement and other circumstances, I feel inclined to allow this application.
7. 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.
8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge