

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9079 of 2020

- Sunil @ Chhotu Yadav S/o Arvind Yadav, Aged About 19 Years, R/o Sarai Singar, Police Station Kusmunda Tehsil Katghora, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through SHO, Police Station Kusmunda District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Non-applicant

For Applicant – Shri Vijay Kumar Sahu, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-03-2021

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 12-10-2020 in connection with Crime No.418/2020 registered at Police Station – Kusmunda, District Korba, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 4 of POCSO Act.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The applicant is in jail since 12-10-2020. The prosecutrix had willingly gone with the applicant, stayed with him and also had physical relation without any objection. The prosecutrix was not minor on the date of incident. Therefore, it is prayed that the applicant be granted bail.
3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor, therefore, any willingness and consent on her part is immaterial. Hence, the application may be rejected.
4. Heard learned counsel for the parties and perused the case diary.
5. The case of prosecution is this, that this applicant abducted the minor prosecutrix, kept her in his custody and also had physical relation with her knowing well that she was not capable of giving consent.

6. Considered on the submissions. After looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and other circumstances, 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.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge