

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9005 of 2020

- Ajay Kanwar S/o Dadu Singh Kanwar, Aged About 23 Years, R/o Village Tharakpur, Police Station Urga, District Korba Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through The Station House Officer, Police Station Urga, District Korba Chhattisgarh

---- Non-applicant

For Applicant – Shri Ganesh Ram Burman, Advocate.

For Non-applicant/State – Shri Jitendra Shukla, Panel Lawyer.

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

05-03-2021

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 23-09-2020 in connection with Crime No.301/2020 registered at Police Station – Urga, District Korba, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and Section 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix was not minor on the date of incident. Further, in her statement she herself states that she was a consenting party throughout. Hence, there is no case against the applicant. Therefore, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor of age below 18 years on the date of incident, therefore, her consent or willingness is immaterial. Hence, the application may be rejected.

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

5. According to the prosecution case, this applicant and the minor

prosecutrix were acquainted to each other and they were having affair. It is alleged that on the date of incident this applicant abducted the minor prosecutrix and kept her in his custody for about 8 days during which he had physical relation with her knowing well that she was not competent for giving consent.

6. Considered on the submissions and the statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. and on looking to that, 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