

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 8293 of 2021

Guddu @ Sandeep Singh S/o Naththi Singh Aged About 29 Years R/o Village And Post Hasanpur, Police Station Jahangirpur, District Bulandshahar, Uttar Pradesh., District : Bulandshahar, Uttar Pradesh

---- Applicant

Versus

State Of Chhattisgarh Through S.H.O. Police Station Chandni, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Applicant

For Applicant	:	Shri Pushkar Sinha, Advocate
For Non-applicant	:	Ms. Hamida Siddiqui, Dy. A.G.

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

26/11/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.11/2019 registered at Police Station- Chandni, District- Surajpur (C.G.) for the offence punishable under Sections 363, 365, 366, 376 (2) (n) IPC, Sections 5, 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Case of prosecution is that on 1.3.2019, prosecutrix left her house. Parents of the prosecutrix have searched in nearby area and in home of their relatives. When she did not return back, father of the

prosecutrix lodged report on 16.3.2019 to the concerned police station, based upon which, FIR was registered against unknown person for offence under Section 363 IPC. During the course of investigation, prosecutrix was recovered on 5.8.2019 from the house of applicant at Village -Hasanpur, District- Bulandshahar, U.P. After recording of her statement, aforementioned crime was registered against the applicant and he was arrested.

3. Shri Pushkar Sinha, learned counsel for the applicant would submit that the prosecutrix was in love affair with the applicant since long. It is the prosecutrix herself who, on mobile phone, called the applicant to her village and, thereafter, she accompanied him and came to house of the applicant. Applicant and prosecutrix got married in temple and started living as husband and wife since then. He also submits that marriage of the applicant and prosecutrix was also got registered in Marriage Registration Office at Khurja, Bulandshahar. The maternal aunt of prosecutrix informed on mobile phone that her father has lodged report and police is searching her, on which, she came to house of her maternal aunt and from there she was taken to police station. Age of the prosecutrix as mentioned in *Aadhar Card* is 1.1.2000 and therefore even on the date of incident i.e. 1.3.2019, prosecutrix was a major girl and hence, the applicant may be enlarged on regular bail.
4. Ms. Hamida Siddiqui, learned counsel appearing for the State opposes the submissions made by learned counsel for the applicant and would submit that as per the school register, date of birth of the prosecutrix is 1.1.2002, hence, on the date of incident, the

prosecutrix was aged about 17 years only and a minor girl. In her statement, she has stated that she went along with the applicant, performed marriage in the temple and thereafter she lived in the house of the applicant where applicant has committed sexual intercourse with her on number of occasions due to which she also became pregnant. Hence the applicant is not entitled to grant of bail. Learned counsel for the State in support of her contention, read over statement of the prosecutrix recorded under Sections 161 and 164 of Cr.P.C. However, on putting specific query to learned counsel for the State with regard to submission made by learned counsel for the State about the registration of marriage, upon going through the case diary, she submits that one certificate of marriage is available on record which is dated 16.5.2019 issued by Marriage Registration Office- Khurja, District- Bulandsharar.

5. Father of the prosecutrix is present through virtual mode from District Legal Services Authority, Surajpur, he submitted that the applicant should not be enlarged on bail.
6. I have heard learned counsel for the parties.
7. Taking into consideration the nature of allegation, facts and circumstances of the case, the police, during the course of investigation has collected the marriage registration certificate, considering the statement of the prosecutrix under Sections 161 & 164 Cr.P.C. without commenting anything on merits, I am inclined to enlarge the applicant on regular bail.
8. Accordingly, the bail application is allowed. It is directed that the

applicant shall be released on regular bail, upon his furnishing a bail bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the Court on the conditions that:-

- a) Applicant shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
- b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge