

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9388 of 2020

- Budru Kashyap S/o Shri Maaso Kashyap, Aged About 23 Years Caste Madiya, R/o Village Alnaar Kotwarpara, P. S. And Tahsil Lohandiguda, District Bastar Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Lohandiguda, District Bastar Chhattisgarh

---- Non-applicant

For Applicant – Mr. Akhtar Hussain, Advocate.

For State/Non-applicant – Ms. Shivali Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

24-03-2021

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 15-12-2019 in connection with Crime No.71/2019 registered at Police Station – Lohandiguda, District Bastar, Chhattisgarh for the offence under Section 363, 366, 376, 506 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. The applicant and the prosecutrix both have married in the scheme of Mukhyamantri Kanyadan Yojana. The prosecutrix has resided with the applicant for about four years from the year 2015. The FIR has been lodged on 23-10-2019 which is totally false. Hence, it is a clear case of consent and willingness of the prosecutrix. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor when she was abducted by this applicant, therefore, her consent and willingness is immaterial. The prosecutrix has in her Court statement clearly stated that she has been raped by this applicant. Therefore, there is no case for grant of bail.

4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix of age below 18 years sometime in the year 2015, performed marriage with her and kept her in his custody, during which he continuously exploited her sexually knowing well that she was not capable of giving consent. The prosecutrix has then lodged the FIR.
6. Considered on the submissions. Looking to the period during which the applicant and the prosecutrix resided together which is about four years and also the other circumstances present, 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