

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.9420 of 2020

- Sameer Khan S/o Firoz Khan Aged About 19 Years, caste- Muslim, R/o Village Hamal Para, Thana Kharsia, District Raigarh Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Pathahgoan, District Jashpur Chhattisgarh

---- Non-applicant

For Applicant : Mr. Sanjay Agrawal, Advocate.

For Non-applicant/State : Mr. B.P. Banjare, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09-03-2021

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 23.09.2020, in connection with Crime No.199/2020 registered at Police Station-- Pathalgoan, District- Jashpur, C.G. for offence punishable under Sections 363, 366 and 376(2) of I.P.C. and Sections 04 & 06 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 story of prosecution is totally false. The prosecutrix has in her statement under Section 161 of Cr.P.C. not alleged any commission of offence of rape with her. Her statement under Section 161 and 164 of Cr.P.C. clearly reveals that she was herself a person, who planned for going with the applicant and residing with him, for which she also compelled the applicant to do so after threatening him emotionally, therefore, there is no case against this applicant.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was minor of age below 18 years, therefore, any willingness or consent on her part is of no consequence. Hence, 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 on 17.09.2020. The father of prosecutrix lodged her missing report on 18.09.2020. The prosecutrix was recovered from the custody of this applicant on 23.09.2020 and then, on the basis of her statement, the offences has been registered against the applicant. Hence, this case.
6. Considered on the submissions and the statement of the prosecutrix under Section 161 and 164 of Cr.P.C. reveals that she made a call to the applicant and asked him to take her and thereafter, both of them resided together for some time. The allegation regarding the physical relation has been made by the prosecutrix for the first time in her statement under Section 164 of Cr.P.C., hence, looking to these 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.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge