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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 57 of 2021

- Kishan Jaiswal, S/o Radheshyam Jaiswal, Aged About 19 Years, R/o Shaktipara, Urkura, District Raipur C.G. Permanent R/o Village Nakdaha, Fulwariya, Tehsil Barhaj, Police Station Bhaluaani, District Devariya U.P., District : Deoria, Uttar Pradesh

---- Applicant

Versus

- State Of Chhattisgarh, through the Police Station Khamtarai, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Ms. Anuja Sharma, Advocate on behalf of Mr. Raza Ali, Advocate.

For State/Non-applicant – Mr. D.P. Singh, Deputy Advocate General.

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

22-03-2021

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 12-11-2020 in connection with Crime No.281/2020 registered at Police Station – Khamtarai, District Raipur, 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, according to the statement of the prosecutrix under Section 164 of the Cr.P.C. no case is present against this applicant. 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 on the date of incident, therefore, her willingness and consent is immaterial. Hence, the application may be rejected.
4. Heard learned counsel for the parties and perused the case diary.
5. The case of the prosecution is this, that this applicant abducted the minor prosecutrix on pretext of marrying her and then after performing

marriage in a temple in Uttar Pradesh he kept her in his custody and exploited her sexually knowing well that she was not capable of giving consent.

6. Considered on the submissions and after looking to the statement of the prosecutrix given under Section 164 of the Cr.P.C., I am of this view that this applicant should be granted bail.

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