

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.9458 of 2020

- Birendra Yadav S/o Sukalu Yadav Aged About 22 Years R/o Village Salhekala, Police Station Chhuikhadan, Tahsil Chhuikhadan, District Rajnandgaon Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Chhuikhadan, District Rajnandgaon Chhattisgarh

---- Non-applicant

For Applicant : Mr. Abhishek Sharma, Advocate.

For Non-applicant/State : Mr. Jitendra Shukla, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-01-2021

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 12.12.2020, in connection with Crime No.127/2019, registered at Police Station-- Chhuikhadan, District- Rajnandgaon, C.G. for offence punishable under Sections 363, 366 and 376(2)(n) of I.P.C. and Section 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the case. The prosecutrix had been a consenting and willing party, which is reflected from her statement under Section 161 and 164 of Cr.P.C. The minority of the prosecutrix is disputed which shall be challenged in the trial. The complainant has no objection in grant of bail to the applicant. It is also submitted that the prosecutrix is married to the applicant and at present she is residing with the parents of this applicant, hence, it is prayed that this applicant may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application

and submits that on the date of incident, the age of prosecutrix was only 15 years, therefore, any consent or willingness on her part is immaterial, therefore, it is prayed that this application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.
5. Complainant- Mahesh Kumar is present before this Court and he had no objection in grant of bail to the applicant.
6. According to the prosecution case, this applicant abducted the minor prosecutrix on 27.04.2019 and then he kept her in his custody for about more than one year and performed a sham marriage and then continuously had physical relation with her knowing that the prosecutrix is minor and not capable of giving consent for such relation. The prosecutrix was recovered on 12.12.2020 and before that time she had given birth to a male child. Hence, the offences have been registered against the applicant. Hence, this case.
7. Considered on the submissions and the facts of the case and looking to the statement of no objection from the complainant side and other circumstances present, I feel inclined to allow this application.
8. 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 one surety each in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge