

(2020) 07 CHH CK 0026
In the Chhattisgarh High Court
Case No : MCRC No. 1962 Of 2020

Arvind Kumar Lahare @ Gopu Lahare

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 02-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 363

Protection Of Children From Sexual Offences Act, 2012 — Section 4, 6

Citation : (2020) 07 CHH CK 0026

Hon'ble Judges : Rajendra Chandra Singh Samant, J

Bench : Single Bench

Advocate : Shivendu Pandya, Adil Minhaj

Final Decision : Allowed

Judgement

@JUDGMENT-JUDGMENT

Rajendra Chandra Singh Samant, J

1. Notice issued to the informant/ complainant is served, but there is no appearance and no representation.

2. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has

been arrested in connection with Crime No. 433/2018, registered at Police Station- Tilda-Nevra, District- Raipur (C.G.) for the offence punishable

under Section 363, 366, 376 of IPC & Section 4/6 of the Protection of Children from Sexual Offences Act, 2012.

3. Learned counsel for the applicant submits that the applicant is in jail since 23.06.2019 and has been falsely implicated in this case. The applicant

intends to challenge the ground of minority of the prosecutrix on which the

prosecution relies. The prosecutrix had been a consenting party which is reflected from statement given by her to police and also to the Magistrate. She has resided with the applicant for about 4-5 months in Madhya

Pradesh and in Raipur. During that period, neither any objection nor any complaint was made, therefore, no case is made out against the applicant.

FIR has been lodged by parents of the prosecutrix which is false. Hence, it is prayed that this applicant be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application submitting that the prosecutrix has given categorical statement against

this applicant regarding her exploitation and also that age of the prosecutrix was only 15 years and 3 months, when she was exploited sexually by the

applicant, therefore, no case is made out for grant of bail to the applicant. Hence, the application for grant of bail may be rejected.

5. Heard counsel for both the parties and perused the records.

6. As per case of the prosecution, this applicant had acquaintance with the prosecutrix, he eloped with her promising to marry her and then enticed to

take her to difference places and finally, resided in Reeva District in Madhya Pradesh for four months, where he exploited the prosecutrix sexually.

The appellant and the prosecutrix came back and started residing in Raipur. When parents of the prosecutrix met with her, she was presented to the police and FIR was lodged.

7. After considering the entire material placed against this applicant and statement that has been given by the prosecutrix and also that the applicant

has intention to challenge minority of the prosecutrix in trial, I am of the view that it would be proper to release the applicant on regular bail during

pendency of trial against him, hence, I feel inclined to grant bail to the applicant in this case.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that 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 trial Court, for his appearance as and when directed. Certified copy, as per rules.