

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4137 of 2019

- Moh. Salim, S/o Moh Chirag, Aged About 25 Years, R/o Village- Jamgaon Kolaibahal, Police Station- Chakradhar Nagar Raigarh, Tahsil & Civil Revenue District- Raigarh, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police-Station-Chakradhar Nagar Raigarh, Revenue & Civil District- Raigarh, Chhattisgarh.

---- Respondent

For Applicant : Mr. Anand Kesharwani, Advocate.

For Respondent/State : Mr. Avinash Kumar Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/07/2019

1. 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.116/2019 registered at Police Station–Chakradhar Nagar, Raigarh, District (Revenue & Civil)– Raigarh (C.G.) for the offence punishable under Sections 363, 366 & 376 of IPC and Section 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 4 & 6 of the Prevention of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. This applicant has not committed any offence. He is in jail since 12.04.2019, hence, it is prayed that he may be enlarged on regular bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that prosecutrix is a minor and there is evidence to show that this applicant has abducted and raped her. Hence, the applicant is not entitled for grant of regular bail.
4. Heard both the parties and perused the case diary.
5. According to prosecution case, the prosecutrix went missing on 7.4.2019 upon which missing report was lodged and thereafter, the prosecutrix was recovered from the custody of this applicant. The prosecutrix initially made a statement that she was sexually exploited by the applicant by putting her under threat. Hence, the offence has been registered against the applicant.
6. On perusal of the statement of prosecutrix recorded under Section 161 of CrPC, it appears that the prosecutrix had omitted to make some statement of allegation against the applicant in her subsequent statement recorded under Section 164 of CrPC, which she made earlier before the Bal Kalyan Samiti, therefore, there arise question of reliability of the statement of prosecutrix, which shall be considered by trial Court. However, for the present, I feel inclined to allow the application of this applicant.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on regular bail on his furnishing a personal bond for a 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.

Sd/-

(Rajendra Chandra Singh Samant)

Judge