

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1864 of 2020

- Rakesh Nishad, S/o Brijlal, Aged About 20 Years, R/o Village Pahanda, Police-Station-City Kotwali , Baloda Bazar, District-Baloda Bazar, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through S.H.O. Police Station City Kotwali Baloda Bazar , District Baloda Bazar, Chhattisgarh,.

---- Respondent

For Applicant	: Mr. Hemant Gupta, Advocate.
For State/respondent	: Mr. Adil Minhaj, Govt. Advocate.
For Objector	: Mr. G.L. Uike, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

14/08/2020

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.592/2019 registered at Police -Station-City Kotwali, Baloda-Bazar, District-Baloda-bazar(C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 4 of POCSO Act & Section 3(2)(v) of SC/ST Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case because of the enmity of his colleagues. The applicant is in jail since 18.10.2019. No case is made out against the applicant. The prosecutrix has made contradictory statement under Section 161 CrPC, 164 CrPC and also

before the Court, therefore, she is not a reliable witness. The applicant intends to contest the ground of minority of the prosecutrix. The other circumstances also reveal that the case of the prosecution is totally concocted, hence, it is prayed that he may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the age of prosecutrix on the date of incident was only 15 years and 11 months, therefore, any consent or willingness on her part is immaterial. The prosecutrix has made clear statement of allegation against the applicant in the investigation and also before the Court, hence, application be rejected.
4. Mr. G.L. Uike, Advocate appearing for the complainant/informant submits, that the complainant has strong objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and then on pretext of marrying her he established physical relation with her which amounts to commission of offence of rape.
7. Considered on the submissions. The prosecutrix in this case is clearly of age below 16 years. There may be discrepancies in her different statements during investigation and in Court, but she is not a hostile witness, which is found from the copy of the deposition that has been filed along with the application. Further, looking to the strong objection that has been made by the complainant side, I do not feel inclined to

allow the bail application of this applicant.

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha