

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7806 of 2020**

- Sahdeo Nishad, Son Of Maheshwar Nishad, Aged About 22 Years, R/o Village Bharda, Tahsil and District-Gurur, District-Balod (Chhattisgarh).

---- Applicant**Versus**

- State of Chhattisgarh Through The Station House Officer, Police Station Arjuni, District-Dhamtari (Chhattisgarh).

---- Respondent

For Applicant	: Mr. T.K. Jha, Advocate.
For State/respondent	: Mr. B.P. Banjare, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****14/12/2020**

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.139/2020 registered at Police-Station-Arjuni, District-Dhamtari(C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 4 & 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The applicant is in jail since 18.06.2020. The prosecutrix was not minor on the date of incident. The relationship of the applicant was based on consent. The FIR in this case is delayed by four months. During investigation,

samples have been taken for DNA examination, but till date there is no report. The charge-sheet has been filed after completion of investigation, therefore, it is prayed that applicant 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 16 years and 4 months, therefore, any consent or willingness on her part is immaterial. It is submitted that as a result of the incident of rape with the prosecutrix, she became pregnant and then she gave birth to a stillborn child on 14.6.2020, therefore, the allegations against the applicant are serious in nature, hence, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per prosecution case, it is alleged that the applicant and the minor prosecutrix got acquainted, who started having conversation on mobile and then developed an affair. It is alleged that on 6.12.2019, the applicant enticed and abducted the minor prosecutrix and took her to a lonely place where he forcefully raped her. The prosecutrix became pregnant as a result of this incident. Subsequent to which, FIR has been lodged.
6. Considered on the submissions and the facts present in the case. Considering that the FIR was delayed in this case and the investigation has been completed, therefore, I am of this view it would be proper to grant of bail to the applicant during the pendency of trial.

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 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

Nisha