

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 516 of 2021

- Tejraj Nishad, S/o- Ramesh Kumar Nishad, Aged About 21 Years, R/o- Korer, District- Uttar-Bastar Kanker, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station- Kanker, District- Kanker, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Sakib Ahmed & Mr. Navin Shukla, Advocates.
For Respondent/State	:	Ms. Anjali Singh Chouhan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

26/02/2021

Heard.

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.65/2020 registered at Police-Station-Kanker, Distirct-Kanker(C.G.) for the offence punishable under Sections 363, 366 & 376(3) of IPC, Section 3(2)(v) of ST/SC Act 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 prosecutrix was not minor on the date of incident, regarding which the prosecutrix has sworn one affidavit which has been filed in support of this application. Otherwise, there had been a love affair and relationship between the

applicant and the prosecutrix which was based on consent. Therefore, there is no case against this applicant, hence, 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 proof of age in the case diary is the entry school register. According to which, the prosecutrix was of age below 16 years on the date of incident, therefore, any willingness and consent on her part is of no consequence. No case is made out for grant of bail to the applicant. Hence, the application for grant of bail may be rejected.
4. Notice was issued to the complainant which has been returned served, but there is no appearance and no representation from the complainant side.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that this applicant abducted the minor prosecutrix of age below 16 years, who is also a member of SC/ST and by keeping her in his custody, he exploited her sexually for some time until she was recovered by police.
7. Considered on the submissions and the facts present in this case. Looking to the statement that has been given by the prosecutrix and admitting about the love affair with the applicant and other circumstances present and also that the age of the prosecutrix is being disputed by the applicant side, I feel inclined to allow the application of this applicant.

8. 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