

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 421 of 2021**

Jhaleshwar Tiwari @ Guddu S/o Shri Narayan Tiwari Aged About 24 Years
R/o Village - Bataikala, Thana - Kansabel, District Jashpur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
Rajpur, District Balrampur-Ramanujganj, Chhattisgarh.

---- Respondent

For the Applicant : Shri Sunil Sahu, Advocate.
For the Respondent/State : Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.04.2021**

Heard.

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.15 of 2020, registered at Police Station – Rajpur, District – Balrampur-Ramanujganj, Chhattisgarh for the offence punishable under Sections 363, 366 and 376(2)(n) of the Indian Penal Code and Sections 5 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 7.11.2020 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. reflects that she was willing and consenting party. Hence, it is prayed that the applicant be

enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix was clearly a minor of age below 18 years on the date of incident, therefore, her willingness and consent are immaterial. Hence, the applicant is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. According to the prosecution case, the marriage of the applicant with the prosecutrix was being negotiated but that ended without any result. Subsequent to which, this applicant abducted the minor prosecutrix aged about 17 years on 7.5.2020 and then by keeping her in his custody he exploited her sexually knowing well that she is not competent to give consent for such physical relation regarding which, the FIR has been lodged.

6. Considered the submissions and the documents present in this case. Taking into consideration the statement of the prosecutrix and also the witnesses, I feel inclined to grant regular bail to the applicant.

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

8. 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi