

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 405 of 2021**

Vijay Tendulkar S/o Bhajandas Aged About 25 Years R/o Village Bamhanpuri, Police Station Sarsiwan, District Balodabazar-Bhatapara, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station - Sarsiwan, District Balodabazar- Bhatapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri Anand Kesharwani, Advocate.
For the Respondent/State : Shri B.P. Banjare, Dy. 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.115 of 2020, registered at Police Station – Sarsiwan, District – Balodabazar-Bhatapara, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Sections 4 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 27.10.2020 and has been falsely implicated in this case. The prosecutrix in her statement under Section 164 of the Cr.P.C. admitted her

affair and marriage with the applicant and also she wants to reside with the applicant. Hence, no case is made out against the applicant and 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 on the date of incident, the prosecutrix was of age below 18 years, therefore, any consent of the prosecutrix in such a case is immaterial. Hence, for these reasons, 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, it is alleged that this applicant abducted the minor prosecutrix and then by keeping her in his custody he exploited her sexually knowing well that she is not competent to such consent 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 under Section 161 of the Cr.P.C. and other circumstances, 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