

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 556 of 2021**

- Kundan Nirmalkar, Son Of Chintaram Nirmalkar, Aged About 23 Years Resident Of Khapri, P.S. Thankhamhariya, District Bemetara (Chhattisgarh).

**---- Applicant**

**Versus**

- State of Chhattisgarh Through Station House Officer, P.S. Kharora, Raipur, District Raipur (Chhattisgarh).

**---- Respondent**

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| For Applicant        | : | Mr. P.K. Patel and Mr. Dashrath Kushwaha, Advocates. |
| For Respondent/State | : | Ms. Anjali Singh Chouhan, Panel Lawyer.              |

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**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.121/2019 registered at Police-Station-Kharora, Raipur, Distirct-Raipur(C.G.) for the offence punishable under Sections 363, 366 & 376 of IPC and Section 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 in

this case has expired on 21.10.2019 and there is no statement given by her against the applicant. The father of the prosecutrix has made statement against this applicant, which is totally false. The applicant is in jail since 12.11.2020, 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 prosecutrix was below 16 years on the date of incident and that she was abducted by this applicant and subjected to rape, therefore, the applicant is not entitled for grant of bail.
4. Complainant Shatrughan Lal Dhiwar is present before this Court on notice. He has no 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 prosecution case, it is alleged that the prosecutrix went missing on 2.4.2019, regarding which a missing report was lodged by the complainant on 6.4.2019. The prosecutrix was then recovered on 21.10.2019 when she was admitted in the hospital for some ailment and she died on the same day. The father of the prosecutrix has made statement, that this applicant had abducted the prosecutrix and taken her with him in Pune, where both of them were residing as husband and wife for some time. Hence, this case.
7. Considered on the submissions and the facts present in this case and looking to the circumstances present, 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**