

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 841 of 2021

- Punaram Nishad S/o Santosh Nishad Aged About 22 Years R/o Village Gopalpur, P.S. Tumgaon, Tahsil And Distt.-Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through- P.S. Tumgaon, District-Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mrs. Aditi Singhavi, Advocate.

For State/respondent : Mr. Anil Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

29/07/2021

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.43/2020 registered at Police-Station-Tumgaon, District-Mahasamund(C.G.) for the offence punishable under Sections 363, 366, 376(2)(n) of IPC and Section 4 & 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since 17.04.2021. The prosecutrix and the applicant both had love affair and,

therefore, her relation with the applicant was consensual. It has been admitted by her in her statement in trial, therefore, there is no case present against this applicant, hence, it is prayed that this 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 prosecutrix was minor of age below 18 years on the date of incident, therefore, her willingness and consent is immaterial and further, the prosecutrix is not a hostile witness before the Court, therefore, the application be rejected.
4. The prosecutrix is virtually present before this Court through the 'Help Desk' of DLSA, Mahasamund on notice. She has stated that she has objection in grant of bail to this 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 this applicant abducted the minor prosecutrix, kept her in his custody in confinement and then also exploited her sexually, knowing well that she was not capable to give consent for such relation being minor
7. Considered on the submissions. After considering on her statement under Section 164 CrPC and also on her Court statement, certified copy of which filed along with application, 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