

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 1192 of 2021**

P. Sandeep Kumar S/o P. Shri Niwasrao Aged About 27 Years R/o Aspatal Para, Konta, Tahsil- Konta, District- Sukma, Chhattisgarh. (The details of name of the applicant is not mentioned in the certified copy of order).

**---- Applicant****Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Konta, District- Sukma, Chhattisgarh.

**---- Respondent**


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For the Applicant : Shri T.K. Jha, Advocate.  
For the Respondent/State : Ms. Shivali Dubey, P.L.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****ORDER****06.04.2021**

Heard.

1. Earlier, the applicant had filed Cr.A. No. 939 of 2020 under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which has been dismissed as withdrawn. Subsequent to which, this application has been filed.

2. 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.28 of 2020, registered at Police Station – Konta, District – Sukma, Chhattisgarh for the offence punishable under Section 376(A)(B) of the Indian Penal Code, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of

the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Learned counsel for the applicant submits that the applicant is in jail since 10.7.2020 and has been falsely implicated in this case. The applicant is a disabled person and it has been certified by the District Medical Board, Dantewada, that the applicant is suffering from 60% permanent disability. The applicant is unable to do his daily routine by his own, for which he requires assistance from a helper, which is not available to him in the jail. It is further submitted that it is a clear case of false implication of the applicant as the statement of the victim is not clear regarding the act committed by him and also the medical examination report of the victim is negative. Hence, it is prayed that the applicant be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that there is clear statement of the witnesses against this applicant regarding the commission of the act which amounts to rape with a minor child of age 4 years 11 months, therefore, he is not entitled for grant of bail.

5. The complainant had appeared on notice before this Court on 23.3.2021 and made a statement of no objection in grant of bail to the applicant.

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

7. According to the prosecution case, it is alleged that this applicant called the minor victim of age below 5 years inside his shop tempting to give her some sweets and then he raped her and also inserted his finger in her private part, the victim felt pain who came back crying. The father of the victim has lodged FIR.

8. Considered the submissions and the documents present in this case. There is confirmation that the disability of the applicant is confirmed from the report present in the case-diary. Taking into consideration of the submissions about disability and false implication of the applicant, it is observed that the medical examination report of the victim/ prosecutrix is also negative. Hence, under these circumstances, I feel inclined to grant regular bail to the applicant.

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

10. 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