

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 895 of 2021

- Balram Banjare, S/o Dwarika Banjare, Aged About 22 Years, R/o Guru Ghasidas Chowk, Kawardha, P. S. Kawardha, District-Kabirdham, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, P. S. Kawardha District-Kabirdham, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Ajay Ayachi, Advocate.
For Respondent/State	:	Mr. Jitendra Shukla, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

25/02/2021

Heard.

1. This is 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.698/2020 registered at Police Station-Kawardha(C.G.) for the offence punishable under Sections 363, 365, 376(2)(6) of IPC and Sections 4 & 6 of the POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The prosecutrix was

not minor on the date of incident. Further, she was a consenting and willing party according to her statement given to the police under Section 161 of CrPC and to the Magistrate under Section 164 of CrPC, hence, there is no case against this applicant, therefore, it is prayed that he may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application submitting that the prosecutrix was minor, therefore, any willingness and consent on her part is of no consequence. No case is made out for grant of bail to the applicant. Hence, the application for grant of bail may be rejected.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per prosecution case, It is submitted that the applicant and the prosecutrix both are acquainted to each other and were having a love affair since the year 2019, in which, they were also having physical relation. This was disclosed to the parents of the minor prosecutrix because of which she was taken to task by them. The applicant then abducted the minor prosecutrix in the night of 21.11.2020 and kept her in his custody for some days, during which she denied for having physical relation, but the applicant forcefully committed intercourse knowing well that she was not competent to give valid consent for such relation. Hence, this case.
6. Considered on the submissions. Considering of the statement of the prosecutrix and other facts present, I feel inclined to allow the bail application of this applicant.
7. 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