

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1070 of 2021

- Toshan Kumar Joshi, Son of Late Santu Ram Joshi, Aged About 19 Years, Resident Of Purur (Mirritola), Police Station-Gurur, District-Balod (Chhattisgarh).

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station-Ranchirai, District- Balod (Chhattisgarh).

---- Respondent

For Applicant	:	Mr. B.P. Singh, Advocate.
For Respondent/State	:	Mr. Gurudev I. Sharan, Govt. Advocate.

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

12/02/2021

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.155/2020 registered at Police-Station-Ranchirai, Distirct-Balod(C.G.) for the offence punishable under Sections 363, 366 & 376(2)(ॢ)of IPC and Section 4, 5(ॢ) 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 was not minor on the date of incident. There had been a love affair between applicant and prosecutrix, therefore, they went to Allahabad and have performed marriage. The physical relation between them does not

amount to any offence. The applicant is in jail 28.12.2020. 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 on the date of incident the prosecutrix was minor. Because of the minority of the prosecutrix, any consent or willingness on her part is immaterial. Hence, application 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 alleged that the minor prosecutrix of age below 18 years was enticed by this applicant and then she was abducted by him. The prosecutrix was then taken to Allahabad where the applicant kept her in his custody and had physical relation with her knowing well that she was not competent to give valid consent for such relation. Hence, this case.
6. Considered on the submissions and looking to the statement that has been given by the prosecutrix under Section 164 CrPC and other circumstances present, I feel inclined to allow the 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

