

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1241 of 2021

- Faneshwar Sahu, S/o Kailash @ Kabilas Sahu, Aged About 22 Years, R/o Rajkatti, Police-Station-Fingeshwar, District-Gariyabandh, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through - Station House Officer, Police Station Panduka, District-Gariyabandh, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Rekhraj Baghel, Advocate.
For Respondent/State	:	Mr. Adil Minhaj, Govt. Advocate.

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

24/03/2021

1. This is the Third bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. His first application MCRC No. 1487/2020 was dismissed as withdrawn with liberty to revive the same when occasion arises vide order dated 02.06.2020. Second application MCRC No.8154/2020 was dismissed as withdrawn vide order dated 07.12.2020.
2. This 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.132/2019 registered at Police-Station-Panduka, District-Gariyabandh(C.G.) for

the offence punishable under Sections 363, 366, 376(2)(K)(n) of IPC and Section 6 of POCSO Act, 2012 and Section 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

3. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The prosecutrix has admitted in her statement before the Court, that she and the applicant both had love affair, therefore, their relationship was based on consent, hence, there is no case against the applicant. Therefore, it is prayed that he may be enlarged on regular bail.
4. 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 minor of age below 16 years, therefore, any consent on her part is immaterial and apart from that the prosecutrix has supported the prosecution case in her Court statement, therefore, the application be rejected.
5. Prosecutrix is present before this Court on notice. She has made statement that she has no objection in grant of bail to the applicant.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. As per prosecution case, it is submitted that this applicant abducted the minor prosecutrix, who is a member of Scheduled Tribe and then by keeping her in his custody, he exploited her sexually knowing well that she was not capable to give valid consent for such relationship.
8. Considered on the submissions. Although there is an statement of no objection made by prosecutrix, but according to the Court statement she is not hostile witness and also looking to the facts and

circumstances of this case, I do not feel inclined to allow the application of this applicant.

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

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha