

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1693 of 2021

- Bhuwan Nagesh, S/o Late Goutam Nagesh, Aged About 26 Years, Village - Navapara (Kosmi), Thana and Tahsil - Chhura, District-Gariyaband, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Police Station House Officer - Thana – Mahasamund, District-Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mr. Deepak Kumar Jain, Advocate.

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

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

12/04/2021

1. Heard.
2. Admit.
3. Learned State counsel submits that the case diary is available.
4. Both the counsel have agreed to make their submissions.
5. This is the second bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. His first application MCRC No. 7954/2020 was dismissed as withdrawn on 5.1.2021.
6. 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.174/2020 registered at Police-Station-Mahasamund, District-Mahasamund(C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and

Sections 4 of POCSO Act, 2012.

7. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated. He has not committed any offence. The prosecutrix and her mother both have been examined in the trial and they have not supported the prosecution case, therefore, there is no ground left for prosecution against this applicant, therefore, it is prayed that he may be enlarged on regular bail.
8. 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 are other witnesses to be examined, who may establish the prosecution case, therefore, the application be rejected.
9. I have heard the learned counsel for both the parties and perused the case diary.
10. As per prosecution case, it is submitted that this applicant abducted the minor prosecutrix, kept her in his custody and exploited her sexually knowing well that she was not capable to give valid consent for such relationship.
11. Considered on the submissions. Perused the certified copy of the deposition of prosecutrix and her mother, it is found that they have been declared hostile by the prosecutor for not supporting the prosecution case, hence, looking to this development, I feel inclined to allow the application of this applicant.
12. 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