

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 1620 of 2021

- Sanat Kumar Nishad S/o Jailal Nishad Aged About 21 Years R/o Village Kotmara Police Station Pussor District Raigarh Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station - Kotra Road, District - Raigarh (Chhattisgarh).

---- Respondent

For Applicant	:	Shri Vineet Kumar Pandey, Advocate.
For Respondent-State	:	Shri Ashish Tiwari, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant, Judge
Order on Board

18.06.2021

1. Heard on the application filed under Section 439 of Cr.P.C. This is the first bail application filed for grant of regular bail. The Applicant has been arrested on 07.10.2020 in connection with Crime No. 185/2020 registered at Police Station Kotra Road District – Raigarh (C.G.) for offence punishable under Sections 363, 366, 376 of Indian Penal Code, Section 4, 6 of POCSO Act 2012 and Section 3(1)(a) & 3(2)(5), of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
2. It is submitted by the learned counsel for the Applicant that the Applicant is innocent who has been falsely implicated in this case. The Prosecutrix and the Applicant had love affair. It was the second time when the Prosecutrix eloped with Applicant and then she was recovered from his custody. The statement of the Prosecutrix shows that she was totally willing and consenting party, although there is an issue of age, but the same shall be contested in the trial by this Applicant. Therefore, it is prayed that the bail may be granted to the Applicant.

3. The learned counsel for the State opposes the submissions and submits that the Prosecutrix being minor was not capable of giving consent, therefore, the case against the Applicant is made out, hence he is not entitled for grant of bail.
4. Complainant Nand Lal Sidar is virtually present before this Court through the help desk of Raigarh, he has objection in grant of bail to the Applicant.
5. I have heard the learned counsel for the parties.
6. According to the prosecution case, it is alleged that the Applicant abducted the minor prosecutrix of the age below 18 years and then kept her in his custody and had physical relation with her knowingly that she was not capable to give consent being a minor, hence this case.
7. Considered on the submissions. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and other circumstances present, I am of this view that Applicant should be enlarged on bail. The application is allowed.
8. Consequently, the application filed by the Applicant under Section 439 of Cr.P.C for grant of regular bail is hereby allowed.
9. It is directed that the 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 Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge