

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1391 of 2021**

Irfan @ Kancha Khan, S/o. Late Shahrukh Khan, aged about 22 years, R/o. Kondapara, Baramkela, Thana Baramkela, District Raigarh Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, through : Aarakshi Kendra- Thana Baramkela, District Raigarh Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rajendra Kumar Patel, Advocate
For Respondent/State	: Mr. Gurudev I. Sharan, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

25/03/2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.152/2020, registered at Police Station – Baramkela, District – Raigarh (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 4, 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 (1) (10) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The statement of the

prosecutrix under Section 164 of Cr.P.C. mentions about the affair of the applicant with the prosecutrix and regarding consent and submission. The prosecutrix was not minor, therefore, there is no case against this applicant. Hence, it is prayed that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix was minor, therefore, her willingness and consent is immaterial, therefore, the applicant is not entitled for grant of bail.
4. Notice had been returned served upon the complainant but there is no appearance and representation.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. Case of the prosecution is this that this applicant abducted the minor prosecutrix on 24.08.2020 and took her to various places and then lastly resided in village, where he exploited the minor prosecutrix sexually knowing well that she was not capable to give valid consent.
7. Considered on the submissions. Taking into consideration the statement of the prosecutrix under Section 164 of Cr.P.C., this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram