

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1410 of 2021

- Tikeshwar Jhariya, S/o Shri Kanhu Ram Jhariya, Aged About 28 Years, Residence Of Village Taulipali, Thana and Tahsil Kartala, District-Korba, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Kartala/city Superintendent of Police Korba, District-Korba, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Vikash Kumar Pandey, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/07/2021

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.184/2020 registered at Police-Station-Kartala, District-Korba(C.G.) for the offence punishable under Section 376 of IPC and Section 4, 6 of POCSO Act and 3(2)(V) of SC/ST Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since 01.11.2020. Charge-sheet has been filed. The statement of prosecutrix under Section 164 CrPC shows about the willingness and consent of

the prosecutrix, therefore, it is prayed that this 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 the prosecutrix was minor of age below 16 years on the date of incident, therefore, her consent or willingness is immaterial, therefore, the application be rejected.
4. The complainant was virtually present through the 'Help Desk' of TLISA, Kartala on 9.4.2021. He had made statement that he has no objection in grant of bail to this applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that this applicant on pretext of marrying the prosecutrix started exploiting her sexually from December, 2019 until she became pregnant in the month of March, 2020. Subsequent to which, the FIR has been lodged. The prosecutrix happens to be a member of SC/ST.
7. Considered on the submissions and the facts present in the case. Taking into consideration the statement of prosecutrix given under Section 164 CrPC and also the statement of no objection from the complainant side, I feel inclined to allow the application of this applicant.
8. 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