

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1489 of 2021**

Sanjay @ Sunny Dhimar, S/o. Ashok Dhimar, aged about 22 years, R/o. Ward No. 06 Mohbhata Bemetara, Thana and District Bemetara, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station Bemetara, District Bemetara Chhattisgarh.

---- Respondent

For Applicant : Mr. Kanwaljeet Singh Saini, Advocate

For Respondent/State : Mr. B.P. Banjare, Dy. Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

31/03/2021

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.756/2019, registered at Police Station – Bemetara, District – Bemetara (C.G.) for the offence punishable under Section 363, 366, 376, of the Indian Penal Code and Section 5 (२) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (अ) of the Scheduled Castes & Schedule Tribes (Prevention of Atrocities) Act, 1989.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix is willing and consenting party, which is reflected from her statement

under Section 161 and 164 of Cr.P.C.. The applicant intends to challenge the ground of minority of the prosecutrix in trial. He is in jail since 10.10.2020. 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 of age below 16 years, therefore, any consent or willingness on her part is immaterial, therefore, he is not entitled for grant of bail.
4. The prosecutrix is present before this Court on notice. She has made statement that she has no objection in grant of bail to the applicant.
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, who is also a member of scheduled tribe, kept her in his custody and after performing of sham marriage, he exploited her sexually.
7. Considered on the submissions. Statement of the prosecutrix under Section 161 of Cr.P.C. shows that she herself left the house of her father and went to the house of the applicant and made proposition to the applicant, subsequent to which, other incident had occurred. Looking to the facts and circumstances and also the statement of no objection made by the prosecutrix in grant of bail to the applicant, 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