

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1604 of 2021

- Khagesh Tiwari, S/o Deendayal @ Devidayal Tiwari, Aged About 28 Years, R/o - Masna, Police Station - Lormi, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh through Police of Police Station - AJAK Mungeli, District - Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh
2. Samaru Gond S/o Baburam Gond, R/o - Masna, Police Station - Lormi, District - Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

----Non-applicant

For Applicant – Shri Pallav Mishra, Advocate.

For Non-applicant/State – Shri Anil Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-07-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 20-07-2020 in connection with Crime No.399/2020 registered at P.S. - AJAK Mungeli, District - Mungeli, Chhattisgarh for the offence under Section 363, 366, 376, 343, 506 of the IPC, Section 4, 6 of POCSO Act and Section 3 (2) V of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated in this case. He is in jail since 20-07-2020. Charge sheet has been filed and the trial is not making any progress. The statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows that she was a willing and consenting party. Further, the minority of the prosecutrix is disputed by the applicant side. Therefore, it is prayed that this applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that on the date of incident the prosecutrix was minor of age below

18 years and further she has been sexually exploited by the applicant on pretext of marrying her. Hence, there is no case for grant of bail.

4. Complainant had virtually appeared before this Court on 16-07-2021 and objected to grant of bail to the applicant.

5. Heard learned counsel for the parties and perused the case diary.

6. According to the prosecution case, it is alleged, that this applicant abducted the minor prosecutrix, kept her in confinement in his own house and then by putting her under threat he sexually exploited her. The prosecutrix also happens to be a member of Scheduled Tribe.

7. Considered on the submissions. After taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C. and that the trial against the applicant is going to be delayed, therefore, I feel inclined to allow this application.

8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. 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.

9. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge