

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1704 of 2021**

- Nitish Kumar S/o Vijay Sao Aged About 23 Years R/o Hariharpur Police Station Ramchandarpur District Balrampur Ramanujganj Chhattisgarh,

---- Applicant**Versus**

- State of Chhattisgarh Through Station House Officer Police Station Ajak Balrampur District Balrampur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Awadh Tripathi, Advocate.
For Respondent-State	:	Shri Ashish Tiwari, Government Advocate.

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

15.06.2021

1. This is the first bail application filed under Section 439 of Cr.P.C. The applicant is arrested in connection with the Crime No.42/2020, registered at Police Station Ajak Balrampur, District Balrampur-Ramanujanj, C.G. for the offence Section 376 (2)(n) of IPC and Section 4, 6 of POCSO Act and 3(2) (V) of Scheduled Caste and Scheduled Tribe (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 prosecutrix was not minor on the date of incident. The relationship between the prosecutrix and the applicant was consensual. Applicant is in jail since 24.8.2020. Hence it is prayed that the applicant may be enlarged on bail.
3. The learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that there is clear evidence that the prosecutrix was minor on the date of incident and any consent on

her part is immaterial, hence, the applicant is not entitled to be released on regular bail.

4. Prosecutrix is virtually present before this Court on notice. She has stated that she has no objection in grant of bail to the Applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, the applicant abducted the minor prosecutrix on the pretext of marrying her and exploited her sexually, who happens to be a member of Schedule Caste. Due to the relationship between the applicant and the prosecutrix, the prosecutrix became pregnant and gave birth to a child, who could not survive subsequently. Thereafter, the FIR has been lodged.
7. Considered on the submissions. Considering the facts and circumstances of the case and also taking into consideration the statement of the prosecutrix, who is virtually present before this Court that she has no objection in grant of bail to the applicant, this Court is inclined to allow this application.
8. Consequently, the application filed by the Applicant under Section 439 of Cr.P.C. 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