

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1877 of 2021

- Ghanshyam @ Chingru Chouhan S/o Hardayal Chouhan, Aged about 19 years R/o Village Nandutoli, Police Station Narayanpur, District Jashpur (C.G.)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police of Police Station Kansabel, District Jashpur (C.G.)

---- Respondent

For Applicant	:	Mr. Sanjeev Kumar Sahu, Advocate
For Respondent/State	:	Mr. Sameer Uraon, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/07/2021

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. 84/2020 registered at Police Station Kansabel, District Jashpur (C.G.) for the offence punishable under Sections 363, 366 (क) and 376 of the IPC, and Sections 3 & 4 of the Protection of Children from Sexual Offences Act.
2. It is submitted that the applicant is innocent who has been falsely implicated in this case. The prosecutrix had been willing and consenting party which is reflected from her deposition in trial and also the prosecutrix was declared hostile by the prosecution. Hence under

these circumstances, the applicant is entitled to get bail.

3. Per contra, learned State counsel opposes the bail application and submits that the prosecutrix was clearly minor, therefore, she was not capable to give consent. It is further submitted that the prosecutrix is not a hostile witness and she has clearly stated against the applicant regarding commission of offence, therefore, the applicant is not entitled to get bail.
4. Complainant has virtually appeared before this Court through DLSA, Jashpur. He has no objection in grant of bail to the applicant.
5. In reply, it is submitted by the counsel for the applicant that the prosecutrix has not stated anything about rape. Her statement is that the applicant did dirty things with her. Hence, the applicant is entitled to get bail.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. As per prosecution case, the applicant abducted the minor prosecutrix who is aged about 15 years, forced her to consume beer and then he raped her.
8. Considered on the submissions and perused the certified copy of the deposition of the Prosecutrix filed along with bail application. Although there is statement of prosecutrix in examination-in-chief that the applicant did dirty things with her, but when leading question was put to her by the prosecutor she has admitted that the applicant had raped her. The fact which constitute the offence, as alleged, appear to be complete in evidence, therefore, I do not feel inclined to allow this bail

application.

9. Accordingly, the bail application is dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

rahul