

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2100 of 2021

- Kajim Ali S/o Khadim Ali, aged about 24 years R/o Village Malga, Police Station Bhatgaon, Tahsil Bhaiyathan, District Surajpur (C.G.)

---- Applicant

Versus

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

---- Respondent

For Applicant	:	Mr. T.K. Jha, 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. 87/2020 registered at Police Station Ajak, Surajpur, District Surajpur (C.G.) for the offence punishable under Sections 363, 366 and 376 of the IPC, Section 3 (2-5) of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act and Section 6 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 was not minor on the date of incident. The statements of the prosecutrix recorded under Sections 161 and 164 of the Cr.P.C reveal that there had been love affair

between the prosecutrix and the applicant and she had willingly accompanied with him and submitted herself for physical relationship, therefore, there is no case made out against the applicant. He prays to release the applicant on bail.

3. Per contra, learned State counsel opposes the bail application and submits that the prosecutrix was minor below 18 years of age, therefore, there is no relevance of consent. The prosecutrix has been examined before the trial Court and she has not been declared hostile. Hence, he prays to reject the bail application.
4. A notice was issued to the Complainant which was returned served for appearance on 21/06/2021, and on that date the prosecutrix has appeared and made 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. As per prosecution case, it is alleged that this applicant had abducted the minor prosecutrix, kept her in custody and exploited her sexually knowing well that she is not capable to give consent.
7. Considered on the submissions. The statement of the prosecutrix reflects about her affair with the applicant and that she left with the applicant by herself. The minority of the prosecutrix is a ground which is under challenge by the applicant's side. The trial is still continuing and there is likelihood of delay in completion of the same. Hence, for these reasons, I feel inclined to allow this bail application and release the applicant on bail.
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

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