

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2470 of 2021**

Gulshan Bariha S/o Ishwar Lal Bariha Aged About 29 Years R/o Village Tendukona, Police Station Tendukona, District Mahasamund, Chhattisgarh. At Present R/o Ward No. 13, Bajrang Chowk, Rawanbatha, Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Office, Police Of Police Station Tendukona, District Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	: Mrs. Smriti Shrivastava, Advocate on behalf of Mr. Jitendra Gupta, Advocate
For Respondent/State	: Mr. Anil Tripathi, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

30/06/2021

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.74/2018, registered at Police Station – Tendukona, District – Mahasamund (C.G.) for the offence punishable under Section 363, 366, 376 (2) (n) of the Indian Penal Code and Section 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of Cr.P.C. clearly reflects that she and the applicant had love affair and they have married. The prosecutrix

was not minor. The prosecutrix has also been examined in the trial and she has not supported the prosecution case. Therefore, 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 age of the prosecutrix was below 18 years, therefore, she was not competent to give any valid consent. Therefore, the applicant is not entitled to be released on bail.
4. The prosecutrix is virtually present on notice before this Court through Help Desk of this Court and 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. As per the prosecution case, this applicant abducted the minor prosecutrix, performed marriage with her and then exploited her sexually continuously for a long period until she was recovered by the police.
7. Considered on the submissions and perused the certified copy of the deposition of the prosecutrix, which shows that she is the hostile witness, therefore, looking to this development, 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