

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2971 of 2021**

Diwakar Tamrakar, S/o. Rajkumar Tamrakar, aged about 21 years, Caste-
Thathera, R/o. Kunkuri Bajrangnagar, Police Station Kunkuri District Jashpur
Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police of Police
Station -Kunkuri, District -Jashpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sanjeev Kumar Sahu, Advocate

For Respondent/State : Ms. Akshara Amit, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**15/07/2021**

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.16/2021, registered at Police Station – Kunkuri, District – Jashpur (C.G.) for the offence punishable under Section 376 (2) (N) of the Indian Penal Code and Section 4, 5 (L) of the POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant according to the statement given by the prosecutrix under Section 164 of Cr.P.C. Hence, it is prayed that the

applicant may be enlarged on regular 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 is below 16 years and further there is clear statement given by her under Section 161 of Cr.P.C. alleging the commission of offence by the applicant. Therefore, the applicant is not entitled for grant of bail.
4. The minor prosecutrix is present virtually before this Court on notice through District Legal Service Authority, Kunkuri and she has 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, it is alleged that the prosecutrix had some dispute in her household because of which, she left and went to Jashpur, where she met with the applicant, who on the pretext of marrying her, took her to some place and kept her in his custody and then have sexual intercourse with her on number of occasion, regarding which, FIR has been lodged.
7. Considered on the submissions. The statement of the prosecutrix under Section 164 of Cr.P.C. appears to be telling a different story, hence, looking to the such contradiction in her statement, 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