

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2888 of 2021**

- Nikhil Dahariya, son of Kartik Dahariya, aged about 21 years, Resident of Village – Kuthraud, Thana – Suhela, District Balodabazar-Bhatapara (C.G.)

---- Applicant

Versus

- State of Chhattisgarh Through the Station House In-charge, Police Station – Suhela, District – Balodabazar – Bhatapara (C.G.)

---- Non-applicant

For Applicant	:	Ms. Supriya Upasana, Advocate.
For Non-applicant/State	:	Shri Alok Nigam, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****02.07.2021**

1. Heard on the application filed under Section 439 of Cr.P.C. This is the first bail application filed for grant of regular bail. The Applicant has been arrested on 04.03.2021 in connection with Crime No. 5 of 2021 registered at Police Station Suhela, Balodabazar-Bhatapara (C.G.) for the offences punishable under Sections 363, 366, 376 of Indian Penal Code and 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 is innocent who has been falsely implicated in this case. The Prosecutrix and the Applicant had love affair and the Applicant and prosecutrix both have also married. Therefore, it is prayed that the bail may be granted to the Applicant.

3. The learned counsel for the State opposes the submissions and submits that the Prosecutrix being minor was not capable of giving consent, therefore, the case against the Applicant is made out, hence he is not entitled for grant of bail.
4. The prosecutrix is virtually present before this Court through the help desk of DLSA Balodabazar, she is represented by counsel Shri Rameshwar Verma who has been engaged by her parents who are also present in DLSA in Balodabazar. Hence, for this reason there is no requirement of issuance of notice as the compliance of Section 15 (A) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and Section 439 (1A) of Cr.P.C. is already there.
5. Counsel for the prosecutrix has stated that there is no objection in grant of bail to the Applicant.
6. I have heard the learned counsel for the parties.
7. According to the prosecution case, it is alleged that the Applicant abducted the minor prosecutrix and then kept her in his custody and had physical relation with her knowingly that she was not capable to give consent being a minor, hence this case.
8. Considered on these submissions. Taking into consideration, the facts and circumstances of the case and also the fact that the prosecutrix herself has no objection to grant of bail to this Applicant, I am inclined to allow this bail application. The application is allowed.
9. Consequently, the application filed by the Applicant under Section 439 of Cr.P.C for grant of regular bail is hereby allowed.

10. 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