

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4486 of 2021**

Salim Sheikh, S/o Mohammad Jahid, Aged About 24 Years R/o Ambedkar Chowk, Gariyaband, Police Station And District - Gariyaband Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station - Gariyaband District - Gariyaband Chhattisgarh.

---- Respondent

For the Applicant : Shri Mohd. Afroz Akhtar, Advocate.
For the Respondent/State : Shri Ajay Kumrani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****03.08.2021**

Heard.

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.219 of 2019, registered at Police Station – Gariyaband, District Gariyaband, Chhattisgarh for the offence punishable under Section 363, 366 and 376(2)(jha)(tha) of the Indian Penal Code, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since 29.9.2019 and has been falsely implicated in this case. The applicant has undergone almost two years in detention but the prosecutrix still has not been examined. The prosecution story itself shows that the prosecutrix had

been consenting party and her minority shall be challenged by the applicant in the trial. Hence, it is prayed that the applicant be enlarged 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 earlier the applicant had filed an appeal i.e. Cr.A. No. 678 of 2020 under Section 14 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 for grant of bail and that has been dismissed on merits vide order dated 19.11.2020, therefore, on the merits of the case, this applicant is not entitled for grant of bail. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Radha Sahni is present before this virtual Court through the Help-Desk of the High Court. She made a statement that she has objection in grant of bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, on the date of incident, this applicant abducted the minor prosecutrix, kept her in his custody for three days and forcibly raped her. It is also stated that this applicant had on earlier occasion abducted the minor prosecutrix and took her to Chitrakut, Uttar Pradesh, where he kept her in his custody for about one month and had physical relation with her continuously. After lodging of FIR and recovery of the prosecutrix, her statement has been recorded.

7. Considered the submissions and the facts present in this case. Looking to the statement of objection from the complainant side, I am of this view that it is not a fit case to grant regular bail to the applicant.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected. However, looking to the length of detention in jail of this applicant, the trial Court is directed to expedite the trial and conclude the same preferably, as far as practicable within a period of six months from the date of receipt of the copy of this order.

Sd/-

(Rajendra Chandra Singh Samant)
Judge