

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.4815 of 2021

- Ramswaroop Nishad S/o Alakh Ram Nishad Aged About 23 Years R/o Basni P. S. Dhamdha, District Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P. S. Simga, District Balodabazar Bhatapara Chhattisgarh

---- Non-applicant

For Applicant	:	Mr. Anil Singh Rajput, Advocate.
For Non-applicant/State	:	Mr. Ajay Kumrani, Panel Lawyer.
For Complainant	:	Mr. Dashrath Prajapati, Advocate.

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

10-08-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 10.04.2021, in connection with Crime No.167/2021, registered at Police Station- Simga, District- Balodabazar-Bhatapara, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C. and Sections 04 and 06 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant that this applicant has been falsely implicated in this case. The applicant is in jail since 10.04.2021. The statement of prosecutrix under Section 161 of Cr.P.C. and 164 of Cr.P.C. clearly shows that there was a love affair between her and the applicant and their physical relation was based on consent. The age of prosecutrix as shown by the prosecutor in the prosecution was 14 years and 06 months, which is doubtful, as in the M.L.C. report,

the doctor has an opinion that the prosecutrix may be of age about 16 years. Further, the applicant will challenge the ground of minority in the trial. Therefore, it is prayed that this application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application and submits that according to the entry in the school register, the age of the prosecutrix was 14 years and 06 months, therefore, her consent and willingness is immaterial. Therefore, it is prayed that this application may be rejected.
4. The prosecutrix had virtually appeared on 28.07.2021 and objected in grant of bail to the applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, it is alleged that this applicant had abducted the minor prosecutrix, kept her in his custody and exploited her sexually, after performing a sham marriage with her. Hence, this case.
7. Considered on the submissions. Taking into consideration, the statement of prosecutrix under Section 161 of Cr.P.C. and the submission regarding the dispute of age of prosecutrix, I feel inclined to allow this application.
8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. 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.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge