

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4698 of 2021**

Purushottam Nishad S/o Ghuruwa Nishad Aged About 21 Years R/o Village Dhuta, Police Station Sarangarh, District Raigarh Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Sarangarh, District Raigarh Chhattisgarh.

---- Respondent

For the Applicant	:	Shri T.K. Jha, Advocate.
For the Respondent/State	:	Shri Ajay Kumrani, P.L.
For the Complainant	:	Ms. Savita Tiwari, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****10.08.2021**

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.515 of 2019, registered at Police Station – Sarangarh, District – Raigarh, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since 05.04.2021 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows the

clear admission of the prosecutrix about her love affair with the applicant and that the applicant and the prosecutrix both have resided about more than 1 year in New Delhi and their relationship is consensual. It is also submitted that the FIR has been lodged because the applicant deserted the prosecutrix. The prosecutrix was not minor on the date of incident. 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 the statement of the prosecutrix under Section 161 of the Cr.P.C. makes clear allegation of rape against the applicant and further, the prosecutrix was minor on the date of incident, therefore, her consent and willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. Learned counsel for the complainant submits that the complainant has objection in grant of bail to the applicant. The prosecutrix has already appeared before this Court on notice on 28.7.2021 and made a statement of 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, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody in New Delhi for about 14 months during which, he exploited the minor prosecutrix sexually knowing well that she is not competent to give such consent. Subsequent to

that, the prosecutrix was deserted by the applicant. Hence, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C., I feel inclined to grant regular bail to the applicant.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge