

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4939 of 2021**

Hulas Kumar Nishad S/o Tejram Nishad Aged About 20 Years R/o Rampur,
P.S. Bhakhara, District Dhamtari, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through, S.H.O. Police Station Gurur, District- Balod
(Chhattisgarh).

---- Respondent

For the Applicant : Shri B.P. Singh, Advocate.
For the Respondent/State : Shri Ajay Kumrani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****11.08.2021**

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.161 of 2021, registered at Police Station – Gurur, District – Balod, Chhattisgarh for the offence punishable under Section 363, 366 and 376 of the Indian Penal Code and Sections 4, 5(tha) & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 7.6.2021 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. There had been an affair and the relationship was based on consent between the prosecutrix and the applicant, which is reflected from her statement before the Child Welfare

Committee and also in the statement under Section 161 of the Cr.P.C. 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 prosecutrix was minor on the date of incident, therefore, her consent or willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Tikaram has appeared before this Court on notice on 4.8.2021. He made a statement that he 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, it is alleged that this applicant abducted the minor prosecutrix of age below 18 years, kept her in his custody and exploited her sexually knowing well that she is not competent to such consent regarding which, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. Looking to the statement given by the prosecutrix under Section 161 of the Cr.P.C. and also the statement given by the prosecutrix before the Child Welfare Committee, 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