

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5203 of 2021**

Kodand @ Kamal Khamari S/o Shri Suresh Khamari Aged About 26 Years
R/o Noonpani, P.S Koksara, District Kalahandi (Odisha).

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Kirandul, District Dantewada Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Ishan Verma, Advocate.
For the Respondent/State	:	Ms. Shivali Dubey, P.L.
For the Complainant	:	Shri Rajat Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.09.2021**

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.56 of 2020, registered at Police Station – Kirandul, District – Dantewada, Chhattisgarh for the offence punishable under Sections 376, 372, 109 and 376(2)(i) of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 27.11.2020 and has been falsely implicated in this case. The prosecutrix has been examined before the trial Court; she turned hostile and has not made any allegation against the applicant. The copy of her

statement filed alongwith this application and the certified copy of the deposition was filed in the case of co-accused - Smt. Chameli Vishwakarma in M.Cr.C. No. 8903 of 2020. 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 age of the prosecutrix had been only 13 years 10 months when she was raped by this applicant regarding which, there is diary statement present. Hence, no case is made out for grant of bail to the applicant.

4. Learned counsel for the complainant submits that the complainant has no objection in grant of bail to the applicant.

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

6. The case of the prosecution is that co-accused – Smt. Chameli Vishwakarma enticed and influenced the minor prosecutrix that she can earn money by submitting physically and under her influence the minor prosecutrix was then forcibly raped by this applicant for which, he made a payment to the prosecutrix. Hence, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. The certified copy of the deposition present in the record of M.Cr.C. No. 8903 of 2020, has been called for perusal and it is found that the prosecutrix has turned hostile and she has not made any submission against this applicant.

Hence, looking to this development, I feel inclined to grant regular bail to the applicant in this case.

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.

Certified copy of the order today.

Sd/-

(Rajendra Chandra Singh Samant)
Judge