

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5320 of 2021

- Sunil Kumar Jaiswal S/o Basantlal Jaiswal, Aged About 28 Years, R/o Mahangai, Uraonpara, Police Station- Ramanujnagar, District- Surajpur, Chhattisgarh, District : Surajpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer, Police of Police Station Khadgawa, District- Koriya, Chhattisgarh, District : District : Koriya (Baikunthpur), Chhattisgarh

----Non-applicant

For Applicant – Shri Anil Gulati, Advocate.

For Non-applicant/State – Shri Sameer Oraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-09-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 10-03-2021 in connection with Crime No.82/2021 registered at P.S. - Khadgawa, District- Koriya, Chhattisgarh for the offence under Section 363, 366, 376(2)(ढ) of the IPC and Section 4, 6 of Protection of Children from Sexual Offences Act and Sections 3(2-v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is submitted on behalf of the applicant, that the applicant has been falsely implicated. He is in jail since 10-03-2021. The prosecutrix has given statement under Section 161 of the Cr.P.C., according to which she willingly went with the applicant, resided with him and she also submitted for physical relation, although she stated about her refusal, but there is her consent by conduct. The prosecutrix has also been examined in the trial and she is unreliable witness. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the prosecutrix was minor and further she is not a hostile

witness before the trial Court. Therefore, the application may be rejected.

4. The prosecutrix had virtually appeared before this Court on 20-09-2021 and objected to 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 abducted the minor prosecutrix, kept her in his custody in a rented house where he exploited her sexually until the minor prosecutrix was recovered by the police.

7. Considered on the submissions. Looking to the statement of the prosecutrix given under Section 161 of the Cr.P.C. and also her deposition in the Court, 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