

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5671 of 2021**

Komlanand Mishra @ Komal, S/o. Harineshwar Mishra, aged about 44 years, Caste Brahman, R/o. Village Bastar, Police Station : Bastar, District Bastar Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Police Station – Bastar, District Bastar Chhattisgarh.

---- Respondent

For Applicant	: Mr. Vikash A. Shrivastava, Advocate
For Respondent/State	: Mr. Shakti Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**06/09/2021**

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.145/2020, registered at Police Station – Bastar, District – Bastar (C.G.) for the offence punishable under Section 376 of the Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 12.12.2020. The prosecutrix has been examined in the trial and she has not supported the prosecution case, therefore, there is no case present against the applicant. Hence, it is prayed that the applicant may be released 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 had been of age below 13 years on the date of incident and further she has clearly stated against the applicant in her statement under Section 161 and 164 of Cr.P.C.. Hence, the application be rejected.

4. The prosecutrix is virtually present before this Court on notice through the Help Desk of D.L.S.A. Jagdalpur. She has no objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, on the date of incident, the applicant has committed the offence of rape against the prosecutrix.
7. Considered on the submissions. Perused the certified copy of the deposition of the prosecutrix, which is filed along with this application, which shows that the prosecutrix has not supported the prosecution case in any manner, hence, looking to this development in the trial, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge