

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5636 of 2021

- Tushar @ Tarun Srivas, S/o. Vinay Srivas, Aged About 20 Years, R/o Magarpara, Ward No. 14, Thana- Civil Line, Bilaspur, Tahsil and District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Police Station House Officer- Thana - Mahasamund, District : Mahasamund, Chhattisgarh

---- Respondent

For Applicant	: Mr. Deepak Kumar Jain, Advocate.
For State/respondent	: Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/09/2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.235/2021 registered at Police-Station-Ratanpur, District-Bilaspur, Chhattisgarh for the offence punishable under Sections 363, 366, 376(2)(n) of IPC and Section 04 & 06 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. They are in jail

since 22.07.2021. The statement of prosecutrix under Section 164 CrPC mentions that she was harassed by the parents because of which she herself willingly left with the applicant, went to Raigarh where they stayed and during the stay they had physical relation which was consensual. Later on, they came to know about the FIR lodged against the applicant. Both of them came back and surrendered in the police-station, hence, there is no case present against this applicant. Therefore, it is prayed that they may be granted bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that prosecutrix was minor and her physical exploitation by the applicants amounts to commission of offence of rape, therefore, the application be rejected.
4. Notice was issued to the complainant which was returned served for today, but there was no appearance and no representation on the fix date i.e. 3.9.2021.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that the minor prosecutrix was abducted by the applicant, who kept her in his custody and exploited her sexually, knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. Looking to the statement of the prosecutrix given under Section 164 CrPC, I feel inclined to allow the bail application of these applicants.

8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicants shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha