

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5829 of 2021**

Rohit Kumar Nayak, S/o. Soniya Nayak, aged about 20 years, R/o. Pinkonda, P.S. Mirtur, District- Bijapur (Chhattisgarh).

---- Applicant**Versus**

State of Chhattisgarh, Through : P.S.- Faraspal, District - Dantewada (Chhattisgarh).

---- Respondent

For Applicant : Mr. Vaibhav Dhar Diwan, Advocate

For Respondent/State : Ms. Shivali Dubey, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**08/09/2021**

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.05/2020, registered at Police Station – Faraspal, District – Dantewada (C.G.) for the offence punishable under Section 363A, 376 (2) (N) 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 29.10.2020. The trial has not made any sufficient progress and only six witnesses have been examined out of total 19 witnesses.

The prosecutrix has also been examined in the trial and in her statement, it is reflected that she willingly accompanied and resided with the applicant in different places without raising any objection until she was recovered by the police, which shows the conduct of the prosecutrix that she was a consenting party. Further she has made admission in her cross-examination in favour of 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 is not a hostile witness, before the trial Court. Further she was minor when the incident has occurred. The applicant has one criminal antecedent for commission of offence under the provisions of Indian Penal Code. Hence, there is no case present for grant of bail to the applicant. Therefore, the application be rejected.
4. The prosecutrix is virtually present before this Court on notice through the Help Desk of D.L.S.A. Dantewada. She has 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, it is alleged that this applicant abducted the minor prosecutrix, took her to different places, kept her in his custody for sometime and during this cohabitation this applicant also had physical relation with minor prosecutrix knowing well that she was not capable of giving consent.
7. Considered on the submissions. Considering that the applicant is in jail since about 11 months, the trial in the case is still not concluded, hence for this reason, 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

Balram