

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5844 of 2021

- Saif Aalam, S/o Safik Mansuri, Aged About 20 Years, R/o Janjgir , Raj Steel, Thana Janjgir , District-Janjgir Champa, Chhattisgarh.

---- Applicant

Versus

- The State of Chhattisgarh Through Police Station Balko , District Korba Chhattisgarh.

---- Respondent

For Applicant	: Mr. Samir Singh, Advocate.
For State/respondent	: Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/09/2021

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.43/2021 registered at Police-Station-Balko, District-Korba, Chhattisgarh for the offence punishable under Sections 363, 366 & 376(2)(n), 376(3) of IPC and Sections 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since 25.02.2021. The statement of prosecutrix under Section 164 CrPC shows that she herself had willingly gone and resided with the applicant in Delhi for some time. Both of them had also performed

marriage, therefore, her relationship with the applicant was consensual. As regard the proof of age in the prosecution case, it is submitted that the only reliance of the prosecution is the birth certificate issued by Sarpanch, who is not authority for issuing birth certificate, therefore, it is prayed that this applicant may be enlarged on regular 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 had been of age about 15 years only at the time of incident, therefore, her consent or willingness is immaterial, hence, the application may be rejected.
4. The prosecutrix and her father Ramnarayan Sahu are virtually present before this Court through the 'Help Desk' of DLSA Korba on notice. Prosecutrix has stated that she has no objection in grant of bail to this applicant, however, her father 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 prosecution case, it is alleged that this applicant abducted the minor prosecutrix took her to places and by keeping her in his custody, he also exploited her sexually, knowing well that she was not capable to give consent for such relation being minor. The prosecutrix also happens to be a member of Schedule Tribe.
7. Considered on the submissions. Looking to the statement given by prosecutrix under Section 164 CrPC and the circumstances that are present, I feel inclined to allow the application of this applicant.

8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha