

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6105 of 2020**

Aanand Tirkey, S/o. Shri Kamla Tirkey, aged about 19 years, R/o. Lau, Police Station Rajpur, District Balrampur-Ramanujganj, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Police Station Incharge Police Station Chalgali, District Balrampur-Ramanujganj, Chhattisgarh.

---- Respondent

For Applicant : Ms. Soniya Kuldeep, Advocate

For Respondent/State : Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**08/01/2021**

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.78/2020, registered at Police Station –Chalgali, District – Balrampur-Ramanujganj (C.G.) for the offence punishable under Section 363, 366, 376 (2) (n) of the Indian Penal Code and Section 4, 6 of the 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 and the prosecutrix both were having an affair, in which, the prosecutrix

was fully consenting party. Therefore, no case is made out against the applicant. The prosecutrix had appeared before the Sessions Court and made statement that she has no objection in grant of bail to the applicant, which was not considered by the Court below. The applicant is in jail since 16.07.2020. It is prayed that the applicant be granted 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 has made clear allegation against this applicant in her diary statement regarding commission of offence of abduction and rape, therefore, no case is made out for grant of bail.
4. Notice was issued to the prosecutrix/complainant in compliance of Section 439 (1A) of Cr.P.C., which has been returned served for appearance for today but there is no appearance and no representation.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. The case of the prosecution is this that the minor prosecutrix was abducted by the applicant and on the pretext of marrying her, she was kept in his custody and exploited by the applicant on number of occasions until she was recovered.
7. Considered on the submissions and the facts present in this case. The statement of the prosecutrix given under Section 161 and 164 of Cr.P.C. are not alike, hence, looking to these circumstances and other circumstances present, 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