

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.6145 of 2021

- Radheshyam Nishad S/o Dhanush Nishad Aged About 20 Years R/o Devrani, Police Station Suhela, District Baloda Bazar Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Bhatapara (Gramin), District Baloda Bazar Bhatapara Chhattisgarh

---- Non-applicant

For Applicant : Mr. Anil Gulati, Advocate.

For Non-applicant/State : Mrs. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-09-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 02.12.2020, in connection with Crime No.42/2020, registered at Police Station- Bhatapara, (Gramin) District- Balodabazar- Bhatapara, C.G. for offence punishable under Section 363, 366, 376 of I.P.C. and Sections 04 and 06 of POCSO Act and Section 3(2)(V) of S.C. and S.T. Act.
2. It is submitted by the learned counsel for the applicant that this applicant has been falsely implicated in this case. The applicant is in jail since 02.12.2020. The prosecutrix has been examined in the trial and she has not supported the prosecution case. Therefore, nothing is left in the

prosecution case against this applicant. Hence, it is prayed that this applicant may be enlarged on bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that on the date of incident the prosecutrix was minor and further, there is diary statement of witnesses present against this applicant. Therefore, he may not be granted bail.
4. Notice was issued to the complainant which has been returned served but there is no appearance and no representation from complainant's side.
5. Heard learned counsel for the parties and perused the case diary.
6. According to prosecution case, this applicant abducted the minor prosecutrix, kept her in his custody and then exploited her sexually for some time, until she was recovered by the police. Hence, this case.
7. Considered on the submissions and also perused the certified copy of deposition of the prosecutrix, which shows that she is a hostile witness and she has not supported the prosecution case. Hence, looking to this development, I feel inclined to allow this application.
8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge