

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6225 of 2021**

Shamu Baghel @ Kanha @ Kanu @ Golu S/o Chaituram Baghel Aged About 22 Years R/o Village Kalipur Near Mata Mandir Ward No. 12 P.S. Parpa District Bastar Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through P.S. AJAK/ Parpa District Bastar Chhattisgarh.

---- Respondent

For the Applicant : Shri Santosh Bharat, Advocate.
For the Respondent/State : Smt. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****28.09.2021**

Heard.

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.74 of 2021, registered at Police Station – AJAK/ Parpa, District Bastar, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since 01.04.2021 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows

that she was willing and consenting party. The prosecutrix was not minor on the date of incident. Hence, it is prayed that the applicant be enlarged 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 age of the prosecutrix was below 18 years on the date of incident, therefore, her consent or willingness is immaterial. Hence, the applicant is not entitled for grant of regular bail.

4. The prosecutrix was virtually present before this Court on 21.9.2021 and she made a statement that she has objection in grant of bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, the prosecutrix who happens to be a member of Scheduled Caste/ Scheduled Tribe was abducted by this applicant, who then kept her in his custody for sometime and during that time, he exploited her sexually knowing well that she is not competent to give such consent regarding which, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and the other circumstances, I feel inclined to grant regular bail to the applicant.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

SD/-

(Rajendra Chandra Singh Samant)
Judge