

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7678 of 2020**

Tilak Dewar S/o Lalji Dewar Aged About 22 Years R/o Village - Nimora,
Police Station - Rakhi, District Raipur (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Rakhi,
District Raipur (Chhattisgarh).

---- Respondent

For the Applicant : Shri Awadh Tripathi, Advocate.
For the Respondent/State : Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****22.01.2021**

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.81 of 2020, registered at Police Station – Rakhi, District – Raipur, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 27.8.2020 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. The prosecutrix and her mother were sworn an affidavit in support of the applicant which was submitted before the Sessions Court in which they have stated that the age

of the prosecutrix is 20 years. The statement of the prosecutrix under Section 164 of the Cr.P.C. shows her consent in her relationship with the applicant, therefore, no case is made out against the applicant. 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 according to the documentary evidence collected in the investigation the age of the prosecutrix was only 15 years on the date of incident. Further, she has stated in the statement under Section 161 of the Cr.P.C. that she was raped by the applicant. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Shyamlal alongwith the prosecutrix is present before this Court on notice and they have stated that they have no 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, it is alleged that this applicant abducted the minor prosecutrix and then by keeping her in his custody he exploited her sexually having forceful sexual intercourse with her. Hence, this case.

7. Considered the submissions. Perused the copy of the statement of the prosecutrix under Section 164 of the Cr.P.C. There is also mention in the

rejection order that the prosecutrix and her mother both had appeared before the Sessions Court making a statement of no objection and about the affidavit filed. Hence, under these 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