

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7451 of 2020

- Manoj Kumar Gayakwad, S/o Kunjlal, Aged About 26 Years, R/o Devgaon, Police-Station-Fingeshwar, District: Gariyabandh, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police of Police Station-Magarlod, District-Dhamtari, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Anil Gulati, Advocate.
For Respondent/State	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

06/01/2021

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.145/2020 registered at Police-Station-Magarlod, District-Dhamtari(C.G.) for the offence punishable under Sections 363, 366, 376, 506 of IPC and Section 4 & 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. The prosecutrix was not minor on the date of incident. The applicant intends to challenge

the ground of minority of prosecutrix in trial. Otherwise, the prosecutrix had been a consenting party as she stayed in the house of the applicant for about 4 days without raising any alarm and without any attempt to escape from his custody, therefore, no case is made out against this applicant, hence, it is prayed that 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 because of the minority of the prosecutrix any consent or willingness on her part is immaterial. Further, the prosecutrix has clearly stated that the applicant had forced her to have physical relation with him. The commission of offence is clearly made out, hence, application be rejected.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per prosecution case, it is alleged that the prosecutrix aged about 17 years and 6 months was enticed by the applicant with false promise to marry her and was abducted by him. The prosecutrix was kept by him in secret confinement in his house for about four days. During this time, the applicant had physical relation with her on number of occasions, which amounts to the commission of offence of rape.
6. Considered on the submissions and the facts present in the case. After looking to the statement that has been given by the prosecutrix and other circumstances that are present in the petition, I feel inclined to allow the application of this applicant.
7. 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