

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7285 of 2021**

Akil Chand Dewangan, S/o Sohan, Aged about 20 years, R/o – Village Govindpur, Schoolpara, Thana Khadganwa, District Korea (C.G.) (In Jail)

---- Applicant

Versus

The State of Chhattisgarh, Through Police Station – Thana, Khadganwa, District Korea (C.G.)

----Non-applicant

For Applicant	: Mr. Hemant Kumar Agrawal, Advocate.
For Non-applicant	: Mr. Ankur Kashyap, Panel Lawyer.

Hon'ble Mr. Justice N.K. Chandravanshi**Order On Board**

09-11-2021

(1) The accused/applicant has preferred this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail in connection with Crime No. 165/2021 registered at Police Station Khadganwa, District Korea (C.G.) for the commission of offence punishable under Sections 363, 366, 376(2)(n) of Indian Penal Code, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 (henceforth “Pocso Act”) and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “SC/ST” Act).

(2) Case of the prosecution, in brief, is that on 26.5.2021 applicant abducted the minor victim/prosecutrix, who belongs to Scheduled Tribe community, and on the

pretext of marriage, took her to Baikunthpur and there repeatedly physically abused her and thereby committed the aforesaid offences. As per case of the prosecution, applicant earlier also has made physical relation with her on the pretext of marriage. On report lodged by father of the victim/prosecutrix, present crime was registered against the applicant. After recovery of victim/prosecutrix from possession of applicant and completion of investigation, charge sheet under Sections 363, 366 (a), 376(2)(ढ) of the Indian Penal Code and Section 4 & 6 of Pocso Act and Section 3(2) (v) of the SC/ST Act was filed against the applicant.

(3) Learned counsel for the applicant would submit that applicant is innocent person and he has falsely been implicated in the alleged crime, actually it is a matter of consent and at the time of incident, victim/prosecutrix was major girl. He would next submit that victim/prosecutrix and her father & mother have been examined before the trial Court but they have been declared hostile by the prosecution and they have not supported the case of the prosecution. He would also submit that applicant is in custody since 30.5.2021 and conclusion of the trial will likely to take long time, therefore, the applicant may be enlarged on bail.

(4) On the other hand, counsel for the State while opposing the submissions made by counsel for the applicant would submit that as per case diary, victim/prosecutrix was minor at the time of incident. He would submit that the applicant, knowing fully well that victim/prosecutrix is the member of Scheduled Tribe, has committed repeatedly sexual intercourse with her against her will. He would next submit that victim/prosecutrix and her father & mother have been declared hostile with regard to some extent but overall they have supported the case of the prosecution. Hence,

bail application filed by the applicant is liable to be rejected.

(5) Considered the submissions made by counsel for both the parties and perused the case diary as well as material available on record.

(6) Considering the facts & circumstances of the case, deposition of victim/prosecutrix and her father & mother recorded before the trial Court; detention period of the applicant and considering totality of the facts, I feel inclined to grant bail to the applicant. Accordingly, the bail application is allowed.

(7) Accused/applicant is directed to be released on bail on his executing a personal bond for a sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court.

Certified copy, as per rules.

Sd/-
(N.K.Chandravanshi)
Judge

D/-

