

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7950 of 2020

- Tankeshwar Manjhi, S/o Mahesh Majhi, Aged About 35 Years, R/o Girsul, Police Station-Devbhog, District-Gariyaband Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police-Station-Devbhog, District : Gariyabandh, Chhattisgarh

---- Respondent

For Applicant	: Mr. C.R. Sahu, Advocate.
For State/respondent	: Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

05/01/2021

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.145/2019 registered at Police-Station-Devbhog, District-Gariyaband(C.G.) for the offence punishable under Sections 363, 366, 376(2)(a) 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 prosecution itself relying on two documents regarding the date of birth of the applicant. One of which shows her date of birth is 15.10.2001, whereas the other document

shows her date of birth is 9.5.2002, therefore, the age of prosecutrix is disputed from very beginning. Otherwise, looking to the statement given by prosecutrix under Section 164 CrPC, it is clear that there is no case 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 the prosecutrix was clearly minor on the date of incident. Because of the minority of the prosecutrix any consent or willingness on her part is immaterial. 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 this applicant abducted the minor prosecutrix on pretext of marrying her and missing report was lodged by uncle of the prosecutrix. The prosecutrix was recovered on 1.8.2019 from the custody of this applicant and it was on the same day the applicant was arrested. After recovery of the prosecutrix, the other offences have been added.
6. Considered on the submissions and the facts of the case. The statement under Section 164 CrPC, prosecutrix has stated that she had invited the applicant to elope with him and, further, there is clearly a dispute present regarding the exact date of birth of the prosecutrix, hence, 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