

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7561 of 2021**

- Shankar Achla S/o Shriram Achla Aged About 22 Years Caste Gada, Resident Of Village Hindubinapal, Police Station And Tahsil Antagarh, District North Bastar Kanker (Chhattisgarh)

---- Applicant**Versus**

- The State Of Chhattisgarh Through- Station House Officer Police Station Antagarh, District North Bastar Kanker (Chhattisgarh)

---- Respondent

 For Applicant : Shri Raj Kumar Pali, Advocate
 For respondent/State : Shri Shrikant Kaushik, Panel Lawyer

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****09.11.2021.**

1. This is first bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested on 11.3.2021 in connection with Crime No.78/2020 registered at Police Station Antagarh Distt. North Bastar Kanker (C.G.), for the offence punishable under Sections 363, 366, 376, 376(3), 376(2)(n) of the Indian Penal Code, 1860 (for short 'IPC') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

2. Brief facts of the case are that on 28.9.2020, the applicant abducted minor prosecutrix, took her to his village and on the pretext of marriage, made physical relation with her and also took her to Tamil Nadu, there also he made physical relation with her

and thereafter she become pregnant. On the basis of report lodged by brother of the prosecutrix, present crime was registered under Section 363 IPC in Police Station Antagarh, Distt. North Bastar Kanker against unknown person. After recovery of the victim/prosecutrix from the possession of the applicant, charge sheet under Sections 363, 366, 376, 376(3), 376(2)(n) IPC was filed against the applicant.

3. Learned counsel for the applicant submits that the applicant has not committed the alleged crime. Actual facts of the case is that it is a matter of consent and at the time of the incident, the victim/prosecutrix was not minor. He would next submit that after filing of charge sheet, the victim/prosecutrix, her brother and her mother have been examined before the trial Court and they have been declared hostile by the prosecution as they have not supported the case of the prosecution. The applicant is in jail since 11.3.2021, the trial will take considerable time for its conclusion, hence, the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State while opposing the bail application submits that it is a case of abduction and rape of minor girl. The trial is going on hence, the applicant is not entitled for grant of bail.

5. The victim/prosecutrix virtually appeared along with her brother and aunt before this Court through District Legal Services

Authority, Kanker today and submitted that they have no objection if bail is granted to the applicant.

6. I have heard learned counsel for both parties, perused the case diary and the material available on record, particularly the certified copy of the deposition of the victim/prosecutrix and her brother and mother.

7. Considering the facts and circumstances of the case, deposition of the victim/prosecutrix, her brother and mother, who have been declared hostile by the prosecution as they have not supported the case of the prosecution, detention period of the applicant and totality of the case, I feel inclined to allow the bail application. Therefore, the application under Section 439 of the CrPC is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs.25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.

Certified copy as per rules.

Sd/-

(N.K. Chandravanshi)
JUDGE