

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8468 of 2020**

Rajendar Giri @ Lambu S/o Shri Chand Giri Aged About 22 Years R/o Village- Baurahadandh, P.S. Kapu, Distt. Raigarh, Civil And Revenue Distt. Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station- Kotra Road Raigarh, Distt. Raigarh, Chhattisgarh.

---- Respondent

For the Applicant : Shri Manoj Kumar Sinha, Advocate.
For the Respondent/State : Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.02.2021**

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.173 of 2020, registered at Police Station – Kotra Road, Raigarh, District – Raigarh, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code, Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since 11.9.2020 and has been falsely implicated in this case. The applicant has not committed any offence as alleged. 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 the statement of the prosecutrix under Sections 161 and 164 of the Cr.P.C. is clear and categoric against the applicant alleging the commission of offence of rape and abduction by him. It is further submitted that the age of the prosecutrix is 14 years and 11 months on the date of incident, therefore, her willingness and consent are immaterial. Hence, no case is made out for grant of bail to the applicant.

4. The prosecutrix is present before this Court on notice. She has stated that she has no objection in grant of bail to the applicant and she has also made other statement which is not required to be recorded.

5. Heard counsel for both the parties and perused the case diary.

6. The prosecution case is that this applicant abducted the minor prosecutrix and then by keeping her in his custody he subjected her to sexual intercourse knowing well that she is not competent to such consent regarding which, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. Looking to the statement of no objection made by the prosecutrix herself, I am of this view that it is a fit case where the applicant should be benefited with grant of regular bail during the pendency of trial.

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