

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7787 of 2021**

Pankaj Kumar Nishad, S/o Faguram Nishad, Aged About 20 Years, R/o Village Rambag, Sadar South Ward, Dhamtari Police City Kotwali, District Dhamtari, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station City Kotwali, District Dhamtari, Chhattisgarh.

---- Non-applicant

For Applicant : Shri Kunal Das, Advocate

For Non-applicant/State : Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****17.11.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 04.09.2021 in connection with Crime No.359 of 2021 registered at Police Station City Kotwali, District Dhamtari (C.G.) for commission of offence punishable under Sections 363, 366, 376 of Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that on 31.08.2021, applicant abducted the prosecutrix, took her to village Koliyari in the house of his maternal uncle. Applicant committed forceful intercourse with her on the pretext of marriage till 03.09.2021. Prosecutrix was recovered from the possession of applicant at village Koliyari, thereafter, statement of prosecutrix was recorded and applicant was arrested.

3. Shri Kunal Das, learned counsel for the applicant would submit that applicant has been falsely implicated in this case, applicant has not committed any offence as alleged against him. Referring to statement recorded under Section 164 of Cr.P.C. of prosecutrix, he would submit that in the statement, prosecutrix has not made any allegation of any nature against the applicant. In the statement recorded before the Magistrate, prosecutrix stated that she with her own will, left the house and went to Gurur and after 2-3 days, she return back to her house, no offence as alleged against him can be made out against the applicant.
4. Shri Vinod Tekam, learned State Counsel opposing the submissions made by learned counsel for the applicant, would submit that specific allegation of abduction and forceful intercourse has been levelled by the prosecutrix in statement recorded under Section 161 of Cr.P.C. Prosecutrix on the date of incident was 17 years and 2 months of age, hence, applicant is not entitled for benefit under Section 439 of Cr.P.C.
5. As recorded yesterday, prosecutrix and her mother was present through virtual mode from the District Legal Services Authority, Dhamtari and they have stated that they are not having any objection in grant of bail to the applicant.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegations, particularly statement recorded under Section 164 of Cr.P.C. of prosecutrix, without commenting on the

merits of the case, I am inclined to release the applicant on regular bail.

8. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;

a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.

b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge