

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 8003 of 2021**

Domen @ Domendra Mahala, S/o. Paltu Ram Mahala, aged about 19 years,
R/o. Firtutola, Police Station -Mangchuwa, District- Balod (C.G.).

---- Applicant

Versus

State of Chhattisgarh, Through - Station House Officer, Police Station
Mangchuwa, District- Balod (C.G.).

---- Respondent

For Applicant : Mr. Prasoon Agrawal, Advocate

For Respondent/State : Mr. Aman Kesharwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**24/11/2021**

1. This is the third 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.43/2019, registered at Police Station – Mangchuwa, District Balod (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 5 (j) (II), 5 (L)/6 of POCSO Act. The first bail application of the applicant M.Cr.C. No. 1803 of 2020 was dismissed as withdrawn vide order dated 02.06.2020. The second bail application M.Cr.C. No. 6303 of 2020 was also dismissed on 03.12.2020 as withdrawn with liberty to repeat the application after examination of the prosecutrix in trial.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. He is in jail since 06.11.2019. The prosecutrix has been examined in the trial. The deposition of the prosecutrix, before the trial Court reveals that her relation with the applicant was consensual. Therefore, on this basis,

the applicant is entitled for grant of 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 prosecutrix has fully supported the prosecution case in the trial. There is no case present for grant of bail to the applicant.
4. The prosecutrix is virtually present, before this Court through the Help Desk of D.L.S.A., Balod and she has objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. According to the prosecution case, this applicant forcibly abducted the minor prosecutrix and despite her resistance, forcibly raped her, knowing well that she was minor and incapable for giving consent. The prosecutrix became pregnant, subsequent to which, the FIR has been lodged.
7. Considered on the submissions. The prosecutrix have been examined in the trial, but she is not a hostile witness. The appreciation of the evidence brought, before the trial Court can not be made by this Court for the purpose of granting bail to the accused persons. Therefore, this Court is of the view that this is not a fit case for grant of bail to the applicant.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected. However, the learned trial Court is directed to expedite the proceeding and conclude the trial preferably within a period of four months from today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge