

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8509 of 2020

- Uttar Ku. Tondon, S/o Jai Kumar Tondon, Aged About 21 Years, R/o Pithampur, P. S. Kotwali, Mungeli, District-Mungeli, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Officer-In-Charge of Police Station City Kotwali Of Mungeli, District : Mungeli, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Pallav Mishra, Advocate.
For Respondent/State	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

19/01/2021

Heard.

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.631/2020 registered at Police-Station-City Kotwali, Mungeli(C.G.) for the offence punishable under Sections 363 & 376 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 is not minor on the date of incident. The applicant is residing in Hyderabad for his job. The prosecutrix has given statement under Section 164 CrPC mentioning that she left Bilaspur on her own for Hyderabad to visit th applicant and thereafter both of them came back

to Bilaspur then they had physical relation consensually and where making preparation for performing marriage when the police was informed. No case is made out against the applicant, hence, it is prayed that he 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 on the date of incident the prosecutrix was of age below 18 years, therefore, any willingness and consent on her part is of no consequence. The act alleged against the applicant amounts to commission of offence of rape, hence, the 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 the applicant abducted the minor prosecutrix and then by keeping her in his custody he subjected her to physical relation and thus committed the offence of rape.
6. Considered on the submissions and the facts present in the case. After considering the the statement of prosecutrix under Section 164 CrPC and other circumstances present, 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