

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.9098 of 2020

- Eshwar Nishad S/o Alekhram Nishad, Aged About 19 Years R/o Village Timarlaga P.S. And Tahsil Sarangarh, District Raigarh Chhattisgarh,

---- Applicant

Versus

- State Of Chhattisgarh District Magistrate Raigarh District Raigarh (Chhattisgarh) And Through The Station House Officer, Police Station Sarangarh, District Raigarh Chhattisgarh

---- Non-applicant

For Applicant	:	Mr. Manoj Kumar Jaiswal, Advocate.
For Non-applicant/State	:	Mr. Jitendra Shukla, Panel Lawyer.
For Complainant	:	Mr. Tapan Kumar Chandra, Advocate.

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

26-02-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the first bail application filed for grant of regular bail. The applicant has been arrested on 15.09.2020, in connection with Crime No.615/2020 registered at Police Station- Sarangarh, District- Raigarh, C.G. for offence punishable under Sections 363, 366 and 376 of I.P.C. and Sections 4 and 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The prosecutrix has been examined in trial and also she has not supported the prosecution case. Hence, it is prayed that this applicant may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the age of prosecutrix was only 13 years and there are

other witnesses to be examined in the trial who may establish the prosecution case, therefore, it is prayed that this application may be rejected.

4. Learned counsel for the complainant submits that the complainant has no objection in grant of bail to the applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, this applicant abducted the minor prosecutrix of age 13 years on 06.09.2020 and he kept her in his custody uptill 14.09.2020, during which he exploited her sexually knowing well that she was not capable of giving a valid consent regarding which F.I.R. has been lodged.
7. Considered on the submissions and also perused the certified copy of deposition of the prosecutrix. The prosecutrix has not supported the prosecution case, therefore, she was declared hostile by the prosecutor. Hence, looking to this development, I feel inclined to allow this application.
8. Consequently, this application filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with two local surety each in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge