

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8667 of 2020

- Deepak Mirjha, Son Of Naresh Mirjha, Aged About 21 Years, Resident Of Village- Kodapaar, Police Station- Kurud, Choki- Birejhar, District-Dhamtari (Chhattisgarh).

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Chowki- Birejhar Police Station- Kurud, District-Dhamtari (Chhattisgarh).

---- Respondent

For Applicant	:	Mr. K.K. Pandey, Advocate.
For Respondent/State	:	Mr. Chitendra Singh, Panel Lawyer.

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

16/02/2021

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.514/2020 registered at Police-Station-Chowki-Birejhar, Police-station-Kurud, District-Dhamtari(C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 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 was not minor on the date of incident, hence, the applicant intends to challenge the ground of minority of prosecutrix in trial. The statement under Section 164 CrPC given by prosecutrix about her love affair and

physical relation with the applicant clearly shows her consent, therefore, no case is made out against this 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 submitting that the prosecutrix was minor of age below 18 years, therefore, any willingness and consent on her part is of no consequence. No case is made out for grant of bail to the applicant. Hence, the application for grant of bail may 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 submitted that this applicant abducted the minor prosecutrix and then by keeping her in his custody he exploited her sexually knowing well that she was not competent to give valid consent for such relation. Hence, this case.
6. Considered on the submissions and also on the statement given by prosecutrix under Section 164 CrPC, 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