

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 9073 of 2020**

Sanjay Khute @ Sanju S/o Shri Samaru Ram Aged About 22 Years (Age Not Mentioned In The Rejection Order Of The Learned Court Below), Resident Of Near Shiv Parvati Mandir, Jay Jawan Chowk, Telibandha, District Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Station Telibandha, District Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri C.R. Sahu, Advocate.

For the Respondent/State : Ms. Shivali Dubey, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****05.03.2021**

Heard.

1. This is the first 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.415 of 2019, registered at Police Station – Telibandha, District – Raipur, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 25.10.2020 and has been falsely implicated in this case. The prosecutrix was not minor. Her statement under Section 164 Cr.P.C. clearly

shows that she had been willing and consenting party. Hence, it is prayed that the applicant be enlarged on 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 was minor of age below 18 years on the date of incident, therefore, any consent or willingness on her part is of no consequence. Hence, the application be rejected.

4. Heard counsel for both the parties and perused the case diary.

5. According to the prosecution case, the minor prosecutrix was abducted by this applicant and taken to Bhopal where both of them resided for about one year. It is alleged that during this period the applicant had physical relation with the prosecutrix on numerous occasions knowing well that she is not competent to give such consent.

6. Considered the submissions and the facts that are present in the case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C., I feel inclined to grant regular bail to the applicant.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi