

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2369 of 2017

- Javed Khan S/o Rajjab Khan, Aged About 19 Years (Wrongly Mentioned As 21 Years In The Order Sheet), R/o Mararpara, Gandai, Police Station Gandai, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicant	:	Mr. Neeraj Pradhan, Advocate.
For Respondent/State	:	Mr. O.P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/11/2017

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 53/2017, registered at Police Station- Durg, District – Durg(C.G.) for the offence punishable under Sections 363, 366 & 376 of Indian Penal Code (for short 'IPC') and Section 5(l) & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. He is in jail since 21.01.2017. The mother of the prosecutrix has lodged false FIR against the applicant, whereas the prosecutrix herself has given statement under Section 164 of Cr.P.C. which is in favour of the applicant. Further, the trial has commenced and the prosecutrix has

turned hostile before the Court and not supported the case of prosecution, hence, prayed that the applicant be grant of regular bail.

3. Learned State counsel opposes the prayer for grant of bail, however, he would submit that the prosecutrix was of age 16 years on the alleged date of incident, hence, looking to this fact the applicant is not entitled for grant of regular bail.
4. Heard both the parties and perused the case diary.
5. The mother of the prosecutrix lodged FIR against the applicant on 19.1.2017 alleging that applicant has abducted the prosecutrix and the offence under Section 363 of Cr.P.C. was registered. Prosecutrix was recovered from the custody of the applicant on 21.1.2107, thereafter, on the basis of the statement given by the prosecutrix offence under Sections 363, 366 & 376 of IPC and Section 5(l) & 6 of the POCSO Act, 2012 has been registered.
6. Considering the submissions, the statement of prosecutrix under Section 164 of CrPC and before the Court, I am of this view that applicant is entitled for grant of regular bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on 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.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

