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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4061 of 2018**

Sagar Choudhary S/o Ganesh Choudhary Aged About 18 Years R/o Devendra Nagar Ias Colony, Quarter No. 1/1, Police Station Ganj Raipur, Tahsil And District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- The Police Station Civil Lines Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri S.C. Verma, Advocate.
For the Respondent/State : Shri Vinod Tekam, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****25.07.2018**

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.144 of 2018, registered at Police Station – Civil Lines, Raipur, District – Raipur, Chhattisgarh for the offence punishable under Sections 363, 366, 341, 506 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 a boy nearly 18 years of age and is in jail since 21.2.2018. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The prosecutrix and the applicant had love affair. On

18.2.2018, grandfather of the prosecutrix lodged FIR, in which the only allegation against the applicant was for the commission of offence of abduction. Later on, the statement under Section 161 of the Cr.P.C. which was recorded on 19.2.2018 allegation of rape was added, which clearly shows that it is a concocted case. 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 is a minor and she has made clear statement about the commission of offence by the applicant. Hence, the applicant is not entitled for grant of bail.

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

5. The allegation against the applicant is that he abducted the minor prosecutrix on 17.2.2018. The prosecutrix came back to her parents on 18.2.2018 and thereafter, the FIR was lodged in which Section 363 of the IPC was registered. Later on, in the statement under Section 161 of the Cr.P.C. given on 19.2.2018 the prosecutrix made disclosure of offence of rape committed with her by the applicant. Hence, this case.

6. Considered all the aspects of the case and also the age of the applicant. It is clear that on the date the FIR was lodged, there was no allegation of the commission of offence of rape. Hence, under these circumstances, I am of the considered opinion that the applicant deserves to be released on bail.

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 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