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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5951 of 2020**

Maansai Chauhan S/o Biharuchauhan, Aged About 25 Years R/o Village Saraimuda, Sukuwasupara P.S. And Tahsil Lailunga, District Raigarh, Civil And Revenue District Raigarh Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Officer-In-Charge Police Station Dharamjaigarh, District Raigarh Chhattisgarh.

---- Respondent

For the Applicant : Shri Ashutosh Mishra, Advocate.
For the Respondent/State : Shri D.P. Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.12.2020**

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.136 of 2019, registered at Police Chowki Rairumakhurd, Police Station – Dharamjaigarh, District – Raigarh, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 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 15.7.2020 and has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The prosecutrix is not minor in fact she had been

a consenting and willing party in the relationship between her and the applicant. In the present development, the applicant and the prosecutrix both are married and also have a child. The mother of the prosecutrix had appeared before the Sessions Court and made a statement of no objection in grant of bail to the applicant which was not at all considered by the Sessions Court. Hence, it is prayed that the applicant be enlarged on bail during the pendency of trial.

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 age of the prosecutrix had been below 16 years on the date of incident, therefore, any consent or willingness by her is of no consequence. Further, she has supported the prosecution case in the statement under Section 161 of the Cr.P.C. Hence, no case is made out for grant of bail to the applicant.

4. Notice issued to the complainant has been returned served but there is no appearance or representation.

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

6. It is alleged that this applicant abducted the minor prosecutrix on pretext of marrying her and then he exploited her sexually continuously for sometime until she was recovered by the police.

7. Considered the submissions and the facts present in this case. The applicant is relying upon the aadhar card to challenge the date of birth of the

prosecutrix and also looking to the statement given by the prosecutrix under Section 164 of the Cr.P.C., I am of the considered view that this is a fit case for grant of regular bail.

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

9. 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