

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1021 of 2021**

- Shiv Narayan Yadav, S/o Nakul Ram Yadav, Aged About 25 Years, R/o Kokadi Tikarapara, Police Station and District Gariyaband, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through The Station House Officer, Police Station Gariyaband, District-Gariyaband, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Shivendu Pandya, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****03/08/2021**

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.262/2020 registered at Police-Station-Gariyaband, District-Gariyaband(C.G.) for the offence punishable under Sections 363, 366, 376(2)(n) of IPC and Section 04/06 of POCSO Act, 2012 .
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since 05.12.2020. The statement of the prosecutrix under Section 164 CrPC clearly shows, that she was willing and consenting party and, further, she was not a minor on the date of incident, hence, it is prayed that

this applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that prosecutrix was minor on the date of incident, therefore, her willingness and consent is immaterial. There is clear statement of prosecutrix against this applicant under Section 161 CrPC, hence, the application be rejected.
4. Notice was issued to the complainant, which has been returned served but there is no appearance and no representation.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that this applicant abducted the minor prosecutrix kept her in his custody for some time and by use of force he had physical relation with her on number of occasions.
7. Considered on the submissions. After considering on the statement of prosecutrix under Section 164 CrPC and other circumstances present in the case, I feel inclined to allow the bail application of this applicant.
8. 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