

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1094 of 2021

Johit Patel, S/o Shri Dashrath Patel, aged about 22 years, R/o Village Bhilai, Police Station Jarhagaon, District Mungeli, Chhattisgarh

(In Jail)
---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Jarhagaon, District Mungeli (C.G.)

---- Non-applicant

For Applicant: Mr. Lavkush Kumar Sahu, Advocate.
For Non-applicant: Mr. Alok Nigam, Govt. Advocate.
For Objector / Complainant: -
Mr. Punit Ruparel, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/05/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.285/2020, registered at Police Station Jarhagaon, Distt. Mungeli, for the offence punishable under Sections 363, 366, 376 of the IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief, is that the applicant abducted the minor victim and made sexual intercourse with her and thereby committed the aforesaid offence.
4. Learned counsel for the applicant submits that this is the first bail application filed on behalf of the applicant for grant of bail, the

applicant has not committed any offence and he has been falsely implicated in the case. The applicant has been arrested on 4-11-2020 and since then he is in jail. The victim has been examined before the court and there is no evidence on record to hold that she was minor on the date of offence, whereas she has also admitted that the accused made physical relationship with her on the basis of her consent, therefore, the applicant be enlarged on bail.

5. On the other hand, learned State counsel opposes the bail application and submits that the victim has been examined and according to her own statement before the court, her date of birth is 19-3-2006 and the date of offence is 18-12-2020 and therefore on the date of offence, the victim was aged about only 14 years 9 months and as such, considering the fact that the victim was admittedly minor on the date of offence, the applicant is not entitled to be released on bail.
6. I have heard learned counsel appearing for the parties as well as the objector also.
7. Considering nature and gravity of the offence, facts and circumstances of the case and further considering the age of the prosecutrix on the date of offence that she is said to be minor and other material available on record, I do not consider it a fit case for grant of bail to the applicant. Accordingly, the application is rejected.
8. Consequently, the application for urgent hearing and the application for hearing during summer vacation stand disposed of.

Sd/-
(Sanjay K. Agrawal)
Vacation Judge