

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 1436 of 2021**

Devesh Nagesh S/o Shri Niranjana Nagesh, Aged About 22 Years R/o Village-Hasaud, Police Station-Hasaud, Civil And Revenue District- Janjgir-Champa Chhattisgarh.

**---- Applicant****Versus**

State Of Chhattisgarh Through The District Magistrate Janjgir, Civil And Revenue District- Janjgir-Champa Chhattisgarh.

**---- Respondent**


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For the Applicant : Shri Paras Mani Shrivastava, Advocate.  
For the Respondent/State : Shri Gurudev I. Sharan, G.A.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****ORDER****09.04.2021**

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.184 of 2020, registered at Police Station – Hasaud, District – Janjgir-Champa, Chhattisgarh for the offence punishable under Sections 363, 366 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 in jail since 20.12.2020 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. does not made

any allegation of rape against this applicant. FIR has been lodged because of some misunderstanding. 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 statement of the prosecutrix under Section 161 of the Cr.P.C. reflects that she and the applicant were having physical relation since about two years and the prosecutrix is also minor. Hence, for these reasons, the applicant is not entitled for grant of bail.

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. According to the prosecution case, it is alleged that on the date of incident this applicant abducted the minor prosecutrix of age below 16 years. On pretext of marrying her, he took her to Shivrinarayan and then he forcibly raped her.

7. Considered the submissions and the documents present in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. reflects a different story, hence, looking to these circumstances, I feel inclined to grant regular bail to the applicant.

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