

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1694 of 2021

- Mukesh Suryavanshi, S/o Shri Surit Kumar Suryavanshi, Aged About 20 Years R/o Ganiyari Tahsil Takhatpur Police Station-Kota, District-Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through Station House Officer Police-Station-Takhatpur, District-Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Anil Gulati, Advocate.
For State/respondent	: Mr. Anil Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

22/07/2021

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.38/2021 registered at Police-Station-Takhatpur, District-Bilaspur(C.G.) for the offence punishable under Sections 363, 366(क), 376 of IPC and Section 4, 6 of POCSO Act.
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 11.02.2021. charge-sheet has been filed. The prosecutrix was not

minor in this case at the time of incident, even if the age proof of the prosecutrix is taken as it is, then on the date of recovery she was major. Her statement under Section 161 CrPC shows her willingness and consent, therefore, there is no case present against the applicant, 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 on the date the prosecutrix was abducted and subjected to physical relation she was minor, therefore, her consent or willingness is immaterial, hence, the application be rejected.
4. Complainant Ram Nihora is virtually present before this Court through the 'Help Desk' of High Court on notice. He has stated that he has objection in grant of bail to this applicant.
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 the applicant and the prosecutrix both were acquainted to each other. On the date of incident, the prosecutrix by herself left her place of residence and went with the applicant. This applicant took her to the place of his relative knowing well, that the prosecutrix is minor. While keeping the prosecutrix in his custody, he had physical relation with her until the date of her recovery.
7. Considered on the submissions. The age proof of the prosecutrix shows that on the date when she has recovered i.e. 10.2.2021, she had attained majority. However, taking into consideration her statement under Section 161 CrPC and the other submissions made on behalf of

applicant, I feel inclined to allow the 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

Nisha