

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1827 of 2021**

Durgesh Kumar Mahilange S/o Shri Sant Ram Mahilange Aged About 27 Years R/o Village- Kotadabari, Thakurdev Chauk, Champa, Police Station- Champa, Civil And Revenue District- Janjgir- Champa, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station- Saragaon, Civil And Revenue District- Janjgir-Champa, Chhattisgarh.

---- Respondent

For the Applicant : Shri Paras Mani Shriwas, Advocate.
For the Respondent/State : Ms. Anjali Singh Chauhan, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.03.2021**

Heard on admission.

Admit.

Learned State counsel submits that the case-diary is available.

Both the counsels have agreed to make the submissions.

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.110 of 2020, registered at Police Station – Saragaon, 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 16.10.2020 and has been falsely implicated in this case. The prosecutrix in this case was not minor. The applicant intends to challenge the ground of minority of the prosecutrix in the trial. The statement of the prosecutrix under Sections 161 and 164 of the Cr.P.C. clearly shows that she had an affair with the applicant and she had willingly left her place and resided with the applicant and also submitted for physical relation. 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 prosecutrix was minor on the date of the incident, therefore, her consent or willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

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

5. The prosecution case is that this applicant abducted the minor prosecutrix on 12.9.2020, kept her in his custody for about one month, exploited her sexually knowing well that she is not competent to such consent. Father of the prosecutrix lodged FIR on 14.10.2020 and then, the prosecutrix was recovered on 16.10.2020.

6. Considered the submissions and the facts that are present in the case. Looking to the statement of the prosecutrix and the submissions that have been made from the applicant's side, I feel inclined to grant regular bail to

the applicant.

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

8. 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