

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.2014 of 2021

- Vishundas Panika S/o Uttam Das, Aged About 22 Years R/o Jamgala Mahua, Tikra Para, Police Station Lakhanpur, District Surguja (Ambikapur) (Chhattisgarh) (Wrongly Mention In Order Sheet (Annexure A-1) As Vishnudas)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Lakhanpur, District Surguja (Ambikapur) Chhattisgarh

---- Non-applicant

For Applicant	:	Mrs. Indira Tripathi, Advocate.
For Non-applicant/State	:	Mr. Shakti Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

02-08-2021

1. Heard on the application filed under Section 439 of the Cr.P.C. This is the second bail application filed for grant of regular bail. The first bail application in M.Cr.C. No.9471 of 2018 was dismissed as withdrawn on 04.04.2019. The applicant has been arrested on 01.08.2018, in connection with Crime No.90/2018, registered at Police Station—Lakhanpur, District- Surguja (Ambikapur), C.G. for offence punishable under Sections 363, 366 and 376(D) (घ) (ङ) of I.P.C. and Sections 04, 05 (क) and 06 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The applicant is in jail since 01.08.2018. The prosecutrix has been examined in the trial

and she has made admissions in favour of the applicant. Therefore, this is change in circumstances, hence, it is prayed that this applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix is not a hostile witness and she has fully supported the prosecution case and as regards the admissions made by her in cross-examination, that has been clarified in the same deposition. Therefore, no case is made out for grant of bail to the applicant.
4. The complainant appeared before this Court on 26.07.2021 and made a statement of no objection in grant of bail to the applicant.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, on the date of incident, this applicant enticed and abducted the minor prosecutrix of age 12 years on pretext of marrying her. Subsequent to which, he had forcefully raped her. Hence, this case.
7. Considered on the submissions and also perused the copy of deposition of prosecutrix, it is found that she is not a hostile witness. The statement regarding her admissions cannot be appreciated by this Court being a bail Court, it is in the domain of the trial Court only. Therefore, I do not find any reason for the grant of bail to the applicant.
8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby rejected.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge