

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2138 of 2021**

Narendra Sahu S/o Shri Parshottam Sahu Aged About 21 Years R/o Village Kanoujiyakapa, Thana Mungeli, District Mungeli Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Ajak Mungeli, District Mungeli Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sunil Sahu, Advocate.
For the Respondent/State	:	Ms. Shivali Dubey, P.L.
For the Complainant	:	Ms. Anushree Rajput, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.08.2021**

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.548 of 2020, registered at Police Station – AJAK Mungeli, District – Mungeli, Chhattisgarh for the offence punishable under Section 363, 366 and 376 of the Indian Penal Code, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the applicant submits that the applicant is in jail since 5.1.2021 and has been falsely implicated in this case. The prosecutrix under Section 164 of the Cr.P.C. has stated that she had willingly gone,

resided and had physical relation with the applicant, therefore, there is no case present against this applicant. 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 age of the prosecutrix was below 16 years on the date of incident and she has clearly alleged against the applicant in her statement under Section 161 of the Cr.P.C. Hence, no case is made out for grant of bail to the applicant.

4. Learned counsel for the Objector adopts the arguments submitted by the State counsel and submits that the statement of consent the prosecutrix in statement under Section 164 of the Cr.P.C. is of no value, as the prosecutrix was of age below 15 years, therefore, because of her immaturity, she was unable to make any decision or give consent. It is also submitted that the prosecutrix has been examined in the trial and she has supported the prosecution case. Hence, for these reasons, the applicant is not entitled for grant of regular bail.

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

6. According to the prosecution case, this applicant abducted the minor prosecutrix and then by keeping her in his custody he has exploited her sexually knowing well that she is not competent to such consent regarding which, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. As it appears that there is objection from the complainant side and also considering the fact that the prosecutrix has been examined in the trial and she has supported the prosecution case, therefore, I do not feel inclined to grant regular bail to the applicant.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge