

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2419 of 2021

- Vijay Ghasiya @ Maanu, S/o Shri Dhannu Ghasiya, Aged About 21 Years Caste Ghasiya, R/o Village Ketka (Bajaripara), P.S. and Tahsil and District Surajpur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Aarakshi Kendra, Surajpur, District Surajpur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Gyan Prakash Shukla, Advocate.
For State/respondent	: Mr. Samir Uraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

27/07/2021

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.211/2020 registered at Police-Station-Surajpur, District-Surajpur(C.G.) for the offence punishable under Sections 363, 366, 376(2)(N) of IPC and Section 6 of POCSO Act, 2012.
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

12.09.2020. Charge-sheet has been filed. The statement of prosecutrix under Section 164 CrPC shows, that there had been affair and consensual relationship between applicant and prosecutrix. The prosecution is relying on the school register to prove the minority of the prosecutrix, which is not conclusive evidence, therefore, 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 the age of prosecutrix had been below 16 years on the date of incident, therefore, her willingness and consent is immaterial.
4. Notice was issued to the complainant which has been returned served but there is no appearance and no representation.
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 had love affair between them. On the date of incident, this applicant abducted the minor prosecutrix then took her to places, kept her in his custody and had physical relation with her knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. After looking to the statement of the prosecutrix under Section 164 CrPC and other circumstances, regarding possibility of delay in trial, 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