

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2344 of 2021**

- Umesh Kumar Ojha, S/o Amar Singh Ojha, Aged About 21 Years, R/o Gudhawa, Police Station Nagarda, District-Janjgir Champa Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through The Station House Officer, Police Station Balco, District-Korba, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Dharmesh Shrivastava, Advocate.
For State/respondent	: Mr. Alok Nigam, Govt. Advocate.
For Complainant	: Mr. Tarun Dansena, 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.125/2019 registered at Police-Station-City Kotwali, Dhamtari, District-Dhamtari(C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 4 & 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 24.01.2021. The prosecutrix is not minor. The ground of minority of the prosecutrix in the prosecution case is subject to challenge in trial. The

applicant has married the prosecutrix, therefore, no case made out against him, 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 the age of prosecutrix had been just 14 ½ years on the date of incident, therefore, her willingness and consent is immaterial.
4. The prosecutrix is virtually present before this Court through the 'Help Desk' of DLSA, Korba on notice. She has stated that she has no objection in grant of bail to this applicant. She has also stated that she has married with the applicant and that she is not a minor.
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 this applicant abducted the minor prosecutrix of age below 16 years kept her in his custody and also exploited her sexually, knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. After taking into consideration this fact that the prosecutrix has been examined in the trial and she has not favored the prosecution and also she is now present before the Court making the statement of no objection in grant of bail to the applicant. Under these circumstances, 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