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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2463 of 2021**

Mohit Kumar Gayakwad, S/o. Sanjay Gayakwad, aged about 20 years, R/o. Diprapara Ward No. 39, Nearby Dakshinmukhi Hanuman Mandir, Durg, Police Station Durg, District Durg, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police of Police Station, Durg, District Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Purnendra Khichariya, Advocate

For Respondent/State : Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**16/08/2021**

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.44/2021, registered at Police Station – Durg, District – Durg (C.G.) for the offence punishable under Section 363, 366, 376 (2) (a), 376 (3) of the Indian Penal Code and Section 5 (a), 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 23.01.2021. The prosecutrix was willing and consenting

party, which is reflected from the statement under Section 164 of Cr.P.C. The ground of minority of the prosecutrix shall be challenged by the applicant in trial. Hence, it is prayed that the applicant may be released 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 there is allegation of rape against this applicant in the statement under Section 161 of Cr.P.C. Further, the prosecutrix was minor, therefore, her willingness and consent is immaterial. Therefore, the application be rejected.
4. Complainant had virtually present before this Court on 20.07.2021, through the Help Desk of D.L.S.A., Durg and stated that he has no objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and on the pretext of marriage, he has exploited her sexually on numerous occasion.
7. Considered on the submissions. Looking to the statement given by the prosecutrix under Section 164 of Cr.P.C., other circumstances present, and the no objection statement given by the complainant, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram