

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2538 of 2021**

Gyaneshwar Dhruv, S/o. Yashwant Dhruv, aged about 22 years, R/o. Village Salhebhata, Police Station - Keregaon, Civil and Revenue District Dhamtari Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station Panduka, Civil and Revenue District Gariaband Chhattisgarh.

---- Respondent

For Applicant : Mr. Devesh G. Kela, Advocate

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**24/08/2021**

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.5/2021, registered at Police Station – Panduka, District – Gariaband (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 4 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 09.01.2021. The prosecutrix was not minor on the date of incident. The statement of the prosecutrix before the Child Welfare

Committee and under Section 164 of Cr.P.C. clearly reflects that she had willingly accompanied the applicant and resided with him and had physical relation consensually. Therefore, there is no case present against the applicant. 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 the prosecutrix was minor on the date incident, therefore, her willingness and consent is immaterial. Further in her statement under Section 161 of Cr.P.C. she has stated that the applicant has made forceful attempt to rape her. Therefore, the application be rejected.
4. The notice issued to the complainant has been returned served for 04.08.2021 on which date, there was no appearance and no representation.
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 of age below 18 years and by keeping her in his custody, he has exploited her sexually.
7. Considered on the submissions. After taking into consideration the statement of the prosecutrix before the Child Welfare Committee and also the statement under Section 164 of Cr.P.C., 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