

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2562 of 2021**

Sanjay Rathiya, S/o. Falsingh Rathiya, aged about 18 years 2 months, R/o. Village Sakarliya, Chowky- Rairuma, PS and Tahsil – Dharamjaigarh, District Raigarh Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through Officer - In - Charge Chowky - Rairuma Police Station Dharamjaigarh, District Raigarh Chhattisgarh.

---- Respondent

For Applicant : Mr. Ishan Verma, Advocate

For Respondent/State : Mr. Adil Minhaj, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

06/04/2021

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.40/2021, registered at Police Station – Dharamjaigarh, Police Chowki – Rairuma, District – Raigarh (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 4 of the 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 prosecutrix was not minor and further she was a consenting and willing party according to the diary statement. Hence, there is no case against this 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 of age below 18 years, therefore, her willingness and consent is immaterial, therefore, the application be rejected.

4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix of age below 18 years, kept her in his custody and also exploited her sexually knowing well that she was not capable of giving consent.
6. Considered on the submissions. After taking into consideration, the statement of the prosecutrix given under Section 161 and 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.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. 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