

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3234 of 2021**

Vijay Kumar, son of Ramnaresh Aged About 20 Years Caste- Suryawanshi, Resident Of Village- Funga (wrongly mentioned as Fanga in rejection order), Police Station And Tahsil - Khadgawan, District- Korea, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through the Station House Officer, Police Station, Khadgawan, District- Korea, Chhattisgarh.

---- Respondent

For the Applicant : Shri Hemant Kumar Agrawal, Advocate.
For the Respondent/State : Shri Alok Nigam, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.08.2021**

Heard.

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.57 of 2021, registered at Police Station – Khadgawan, District – Korea, Chhattisgarh for the offence punishable under Section 363, 366 and 376(2)(n) of the Indian Penal Code and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 23.2.2021 and has been falsely implicated in this case. After completion of investigation, the charge-sheet has been filed. The statement

of the prosecutrix under Sections 161 & 164 of the Cr.P.C. clearly shows that she was willing and consenting party. The prosecutrix was not minor on the date of incident. The proof of age of the prosecutrix shall be challenged in the trial. Hence, it is prayed that the applicant be enlarged 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 of incident, therefore, her consent and willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. The prosecutrix/ complainant was present before this Court on 28.7.2021 and she has made a statement of no objection in grant of bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody and then exploited her sexually knowing well that she is not competent to such consent. Hence, this case.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and also the statement of no objection from the complainant side, I feel inclined to grant regular bail to the applicant.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge