

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3266 of 2021**

- Vishal Vishwakarma, S/o Shri Sanjay Vishwakarma, Aged About 21 Years, R/o Kabir Ward, Darripura Ambikapur, District : Sarguja (Ambikapur), Chhattisgarh

----Applicant**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station Ambikapur, District : Sarguja (Ambikapur), Chhattisgarh.

---- Respondent

For Applicant	: Mr. Goutam Khetrapal and Mr. Jitendra Shrivastava, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/09/2021**

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.237/2021 registered at Police-Station-Ambikapur, District-Sarguja(C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 5 & 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 05.03.2021. Infact the age of the applicant is only 18 years. There had been a love affair of the applicant with the prosecutrix since April,2020. The prosecutrix has been examined in the trial Court, in which, she

has made admissions regarding her love affair with the applicant and regarding her visiting the applicant and enjoying time with him. The case of prosecution is this, that the applicant raped the minor prosecutrix for the first time on 26th February, 2021, whereas in her statement before the Court, the prosecutrix has said that for the first time she had physical relation with the applicant in the month of July, 2020, therefore, it was continuing affair and the FIR has been lodged because of the discovery made by the parents of the prosecutrix. Although, the prosecutrix is a minor girl. Her minority shall be challenged by the applicant in trial, 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 prosecutrix is not a hostile witness before the trial Court. She has fully supported the prosecution case. Although, there are some admissions into her court statement, that shall be appreciated by the trial Court itself. The prosecutrix being minor her willingness and consent is immaterial, hence, the application be rejected.
4. The prosecutrix had virtually appeared before this Court through the 'Help Desk' of DLSA Ambikapur on 02.08.2021. She had stated that she has objection in grant of bail to this applicant.
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 allured the minor prosecutrix with promise to marry her and then he abducted the minor prosecutrix and then by keeping her in his custody, he exploited

her sexually without her willingness and consent, knowing well that she was not capable to give consent for such relation being minor.

7. Considered on the submissions. Perused the certified copy of deposition of the prosecutrix. After taking into consideration the facts and circumstances that are present and also that the trial is still pending. There is likelihood of delay in conclusion of trial, for these reasons, 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