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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 3339 of 2021**

Rupendra Mandle, son of Hemlal Mandle, aged about 21 years, R/o. Village Joba, Police Station Tumgaon, District Mahasamund (Chhattisgarh).

---- Applicant**Versus**

State of Chhattisgarh, Through : The Station House Officer, Police Station Tumgaon, District Mahasamund (Chhattisgarh).

---- Respondent

For Applicant : Mr. Shikhar Sharma, Advocate

For Respondent/State : Mr. Shakti Singh Thakur, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**05/07/2021**

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.28/2021, registered at Police Station – Tumgaon, District – Mahasamund (C.G.) for the offence punishable under Section 363, 366, 376 (2) (a) of the Indian Penal Code and Section 4, 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. This applicant has not committed any offence. The prosecutrix has herself left the house of her parents and met with the applicant and asked him to take her to friend's house in another village. The applicant helped the prosecutrix in going to that village. The prosecutrix then was recovered on 29.01.2021 by the police, then she gave statement that she had left

her house because, she had a quarrel with her grand mother and she made no statement against this applicant. The prosecutrix was then again examined before the Child Welfare Committee on 30.01.2021 and she made similar statement. The prosecutrix was then handed over to her parents on 31.01.2021. Subsequent to that on 01.02.2021 false FIR has been lodged by her under pressure and influence of her parents and subsequent to which, she has given false explanation regarding earlier statement. The MLC report also does not mention the duration, during which, the prosecutrix was sexually abused. Therefore, there is no case present against this applicant. Therefore, 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 age of the prosecutrix was only 13 years and one month on the date of incident. The medical examination report clearly mentions that there are signs of sexual intercourse on the private parts of the minor victim. The prosecutrix has given explanation in the FIR lodged and in her statement under Section 164 of Cr.P.C. that she was threatened by the applicant for not disclosing about his sexual act, therefore, she did not make such statement earlier, therefore, under these circumstances, the applicant is not entitled for grant of bail.
4. The complainant herself was virtually present before this Court on 22.06.2021 and she has made strong 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, this applicant abducted the minor prosecutrix on the date of incident, kept her in his custody for about 2-3 days and forcefully exploited her sexually until she was recovered by the police.
7. Considered on the submissions and the facts present in the case. Statements that have been made by the applicant side are required to be appreciated by the trial Court, at present this Court is of the view that the prosecutrix has herself given explanation regarding variety in her statement, therefore, there is no case present for grant of bail to the applicant.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge