

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C. No. 3894 of 2021**

Roshan Lal Nirmalkar, S/o. Bihari Lal Nirmalkar, aged about 19 years, R/o. Village Gorkapar, Police Station Gunderdehi District Balod Chhattisgarh.

**---- Applicant****Versus**

State of Chhattisgarh, Through : S. H. O Gunderdehi District Balod, Chhattisgarh.

**---- Respondent**


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| For Applicant        | : Mr. B.P. Singh, Advocate      |
| For Respondent/State | : Mrs. Smriti Shrivastava, P.L. |

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

**Order On Board****22/07/2021**

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.90/2017, registered at Police Station – Gunderdehi, District Balod (C.G.) for the offence punishable under Section 363, 366, 376 (2) (क), (3) of the Indian Penal Code and Section 4, 5 (अ), (ii) (क), 6 of the POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix has been examined in the trial and she has not supported the prosecution case and also not made any kind of allegation against this applicant. Therefore, there is no case present against the

applicant. Hence, it is prayed that the applicant may be enlarged on regular 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 allegation against this applicant is of very serious nature and further he has criminal antecedents of two previous cases one of them being Crime No. 358 of 2017 registered for offence under Section 363, 376 of the Indian Penal Code and Section 6 of POCSO Act and another case registered for the offence under Section 224 of the Indian Penal Code. Therefore, this applicant is not entitled for grant of bail.
4. Prosecutrix is present virtually before this Court on notice through the Help Desk of District Legal Services Authority, Balod and she has no 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. According to the prosecution case, this applicant abducted the minor prosecutrix and kept her in his custody and also had physical relation with her knowing well that she was not capable to give consent.
7. Considered on the submissions and also perused the certified copy of the deposition of the prosecutrix, in which she has not supported the prosecution case against this applicant, therefore, she was declared hostile by the prosecutor. Looking to this development in the trial against the applicant, 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