

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 3703 of 2021**

Poshan Sahu, S/o. Vishnu Sahu, aged about 21 years, R/o. Jagriti Chowk, Purena, Police Station - Bhilai - 3, District Durg, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, Police Station Mandir Hasaud, Raipur Chhattisgarh.

---- Respondent

For Applicant : Mr. Om Kukreja, Advocate

For Respondent/State : Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

06/08/2021

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.93/2021, registered at Police Station – Mandir Hasaud, Raipur, District – Raipur (C.G.) for the offence punishable under Section 363, 366 & 376 (2) (n) of the Indian Penal Code and Section 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. The applicant is in jail since 11.03.2021. Charge-sheet in this case has been filed. The statement of the prosecutrix under Section 164 of Cr.P.C. shows that

she was willing and consenting party and she has not stated anything about her sexual relation with the applicant. Her statement before the Child Welfare Committee is also similar. 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 there is clear allegation against this applicant regarding sexually exploiting the minor prosecutrix in the statement of the prosecutrix under Section 161 of Cr.P.C.. Therefore, the applicant is not entitled for grant of bail.
4. Prosecutrix is virtually present on notice before this Court through District Legal Services Authority, Raipur and has made statement of 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. As per the prosecution case, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody and had physical relation with her knowing well that she was incapable of giving consent being minor.
7. Considered on the submissions and the facts present in the case. Looking to the statement of the prosecutrix under Section 164 of Cr.P.C. and also that she has no objection in grant of bail to 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 today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram