

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4406 of 2021

- Akash @ Virat Vike, S/o Janak Vike, Aged About 20 Years, R/o Atal Awas, Ward No. 1, Abhanpur, Police-Station-Abhanpur, District : Raipur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station - Nandini Nagar, District : Durg, Chhattisgarh

---- Respondent

For Applicant(Present Virtually)	: Mr. Md. Afroz Athar, Advocate.
For State/respondent	: Mr. Akshara Amit, Panel Lawyer.
For Objector	: Mr. Vijay Kumar Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/09/2021

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.125/2019 registered at Police-Station-Nandini Nagar, District-Durg, Chhattisgarh for the offence punishable under Sections 363, 366, 376(2)(N) of IPC and Section 5(२) & 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant, that the applicant is innocent and has been falsely implicated in this case. He is in jail since 12.10.2020. Charge-sheet has been filed. The conduct of

the prosecutrix has been consensual throughout. As she accompanied the applicant and resided with him and submitted for physical relation. She has not raising any alarm and neither made any complaint. This continued for long duration for about one year and four months, therefore, there is no case present against this applicant. There is likelihood of delay in conclusion of trial against this applicant, 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 was minor of age about 16 years and, therefore, her submissions for physical relation has to be regarded without the presence of valid consent, hence, this application be rejected.
4. Learned counsel for the objector adopts the arguments advanced by the learned State counsel and submits, that the application be rejected.
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 abducted the minor prosecutrix, kept her in his custody, exploited her sexually after performing a sham marriage with her and after a long duration of cohabitation, the applicant has refused to marry the minor prosecutrix.
7. Considered on the submissions. Looking to the facts and circumstances and also the statement of prosecutrix under Section 161 & 164 CrPC, I feel inclined to allow the bail 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