

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3789 of 2021**

- Bhupendra Porte, S/o Karam Singh, Aged About 21 Years, R/o Village-Shitalpur Chowki, Bhawarpur, District-Mahasamund, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through-Police Station-Saraipali, District-Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sanjay Agrawal, Advocate.

For State/respondent : Ms. Akshara Amit, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****06/08/2021**

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.36/2021 registered at Police-Station-Saraipali, District-Mahasamund(C.G.) for the offence punishable under Sections 363, 366, 376(2)(n) of IPC and Sections 4 & 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. The statement of prosecutrix under Section 164 CrPC shows that she was a willing and consenting party through out. False FIR has been lodged by her parents, 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 had been of age below 16 years, therefore, her willingness and consent is immaterial, hence, the application be rejected.
4. Notice was issued to the complainant, which has been returned served but there is no appearance and no representation.
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 for some time had physical relation with her, knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. Looking to the statement given by prosecutrix under Section 164 CrPC and other circumstances, 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