

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4270 of 2021

- Shivcharan @ Shiva Dhurwe, S/o Shri Mukhi Ram Dhurwe, Aged About 24 Years R/o Village Sagona, Police Station Kukdur, Civil and Revenue District-Kabirdham, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer Police Station Kukdur, Civil and Revenue District-Kabirdham Chhattisgarh.

---- Respondent

For Applicant	: Mr. Paras Mani Shriwas, Advocate.
For State/respondent	: Mr. Samir Oraon, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

16/08/2021

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.07/2019 registered at Police-Station-Kukdur, District-Kabirdham(C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 5(L) & 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. He is in jail since 16.11.2019. Charge-sheet has been filed. The prosecutrix has also

been examined in the trial and she has not fully supported the prosecution case, therefore, she is not a reliable witness. The case is still pending for trial, hence, therefore, 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 diary statement of prosecutrix and another witnesses are clearly against the applicant and, further, prosecutrix is minor of age 16 years and 1 month on the date of incident, hence, her willingness and consent is immaterial, therefore, the application be rejected.
4. Notice had returned served for the date of 29.7.2021, on which date there was no appearance and no presentation from the complainant side.
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 there is allegation against this applicant that he abducted the prosecutrix and then by keeping her in his custody, he exploited her sexually, knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. After looking to the statement given by prosecutrix before the Court, I feel inclined to allow the 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