

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 4523 of 2021**

Kamlesh Sahu, Son of Uttam Sahu, aged about 23 years, Caste Teli, R/o. Village Paddor, Police Station - Utai, Tahsil and District Durg (Chhattisgarh).

---- Applicant

Versus

State of Chhattisgarh, Through : Police Station Utai, District Durg (Chhattisgarh).

---- Respondent

For Applicant : Mr. D. Kushwaha, Advocate

For Respondent/State : Ms. Shivali Dubey, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****10/08/2021**

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.145/2021, registered at Police Station – Utai, District – Durg (C.G.) for the offence punishable under Section 294, 506, 376, 376 (2) (N) of the Indian Penal Code, and Section 5L, 4, 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 01.06.2021. Charge-sheet in this case has been filed. There had been love affair between the applicant and the prosecutrix, in which they also had physical relation consensually, which is reflected

from the statement recorded under Section 164 of Cr.P.C.. The prosecutrix was not minor on the date of incident and her ground of minority shall be challenged in the trial. 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 statement of the prosecutrix under Section 161 of Cr.P.C. makes allegation of rape against the applicant and further she being the minor, any consent and willingness on her part is immaterial. Therefore, the application be rejected.
4. Prosecutrix had virtually appeared before this Court on 09.08.2021 through the Help Desk of D.L.S.A. Durg 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, the applicant got acquainted with the minor prosecutrix and then on the pretext of marrying her he had physical relation with her. The prosecutrix then refused to meet the applicant on his subsequent request, because of which, she was abused and threatened by the applicant. Hence, the FIR has been lodged.
7. Considered on the submissions. Taking into consideration 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 as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram