

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4439 of 2021**

Hitesh Kumar Kumhar S/o Deelip Kumhar Aged About 19 Years Residence Of Kumhar Para Sarangarh, Thana Sarangarh, District- Raigarh (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station - Koshir, District - Raigarh (Chhattisgarh).

---- Respondent

For the Applicant : Shri Vineet Kumar Pandey, Advocate.
For the Respondent/State : Shri Sameer Uraon, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****03.08.2021**

Heard.

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.64 of 2021, registered at Police Station – Koshir, District – Raigarh, Chhattisgarh for the offence punishable under Section 363, 366 and 376 of the Indian Penal Code and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 24.3.2021 and has been falsely implicated in this case. The prosecutrix was not minor. Further, her statement under Section 164 Cr.P.C. clearly shows that she had been willing and consenting party. Hence, it is prayed that the applicant be enlarged 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 the prosecutrix was minor on the date of incident, therefore, her willingness and consent are immaterial. Hence, no case is made out for grant of bail to the applicant.

4. The prosecutrix is present before this virtual Court through the Help-Desk of DLSA, Raigarh. She made a statement that she has objection in grant of bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and then by keeping her in his custody he exploited her sexually knowing well that she is not competent to give such consent regarding which, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 161 of the Cr.P.C., I feel inclined to grant regular bail to the applicant.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge