

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4592 of 2021

- Kawalsai @ Kamalasai @ Kamaal Sai, S/o Shri Jaggu Gond, Aged About 30 Years Caste-Gond, R/o Maanpur, Surajpur, Police-Station and Tehsil- Surajpur, District- Surajpur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through, Station House Officer Surajpur, District-Surajpur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Surfaraj Khan, Advocate.
---------------	--------------------------------

For State/respondent	: Ms. Shivali Dubey, PL for State.
----------------------	------------------------------------

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/09/2021

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.50/2021 registered at Police-Station-Surajpur, District-Surajpur Chhattisgarh for the offence punishable under Sections 363, 366(A), 376(2-I), 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. He is in jail since 19.02.2020. The FIR lodged itself mentions, that the prosecutrix had remained in the house of this applicant for about 3 months during

which time there was no complaint or objection by the complainant or the prosecutrix. Only for the reason that the applicant has sent the prosecutrix to her father's home, the FIR has been lodged. The prosecutrix was not minor on the date of incident and her relationship with the applicant was consensual. The applicant is in jail since more than 6 months and the trial is likely to take some time, 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 the diary statement of prosecutrix makes clear allegation against this applicant, therefore, the application be rejected.
4. The prosecutrix is virtually present before this Court through the 'Help Desk' of DLSA Surajpur on notice. She has stated that she has objection in grant of bail to this applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged the applicant abducted the minor prosecutrix on pretext of marrying her, thereafter, kept her in his custody, during which time he regularly had sexual intercourse with her according to the FIR, the applicant send the prosecutrix back to her parents house, subsequent to which FIR has been lodged.
7. Considered on the submissions and the facts that are present in this case. Further, for the reason that there is likelihood of delay in trial, 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