

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4623 of 2021**

Royal Sardar S/o Shri Fadibhusahn Sardar Aged About 43 Years R/o P.V.
47, Radha Nagar, Police Station Gundahur, District Kanker (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Sitagaon, District Rajnandgaon (Chhattisgarh).

---- Respondent

For the Applicant : Shri Jitendra Shukla, Advocate.
For the Respondent/State : Shri Sameer Uraon, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.08.2021**

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.1 of 2021, registered at Police Station – Sitagaon, District – Rajnandgaon, Chhattisgarh for the offence punishable under Section 363, 366, 376 and 506/ 34 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 24.1.2021 and has been falsely implicated in this case. After completion of investigation, the charge-sheet has been filed. The prosecutrix was not minor on the date of incident. Her Aadhar Card shows

her date of birth as 1.1.2002, therefore, her statement under Section 164 of the Cr.P.C. clearly shows that she was willingly left her house and resided with the applicant for sometime during which, physical relation has taken place which appears to be consensual. Subsequent to which, false FIR has been lodged. 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 statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows that the prosecutrix was subjected to rape by the applicant and also 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. Complainant – Sanker Tulavi has appeared on notice on 26.7.2021. He has no 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, took her to places where he kept her in his custody and then exploited her sexually without her consent and willingness subsequent to which, the prosecutrix was brought back to her own house by the applicant. Hence, 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 164 of the Cr.P.C. and also the statement of no objection from the complainant side, 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