

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 4721 of 2021**

Rohit Kumar Patel S/o. Bhagwano Patel Aged About 24 Years R/o. Bhuneshwarpur (Dhalam), Police Station Basna, Now R/o. Domripali, Police Station Sankra, District Mahasamund, Chhattisgarh.

**---- Applicant****Versus**

State Of Chhattisgarh Through Police Station Sankra, District Mahasamund, Chhattisgarh.

**---- Respondent**


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For the Applicant : Shri Shubhank Tiwari, Advocate.  
For the Respondent/State : Ms. Shivali Dubey, P.L.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****ORDER****10.08.2021**

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.165 of 2020, registered at Police Station – Sankra, District – Mahasamund, 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 22.11.2020 and has been falsely implicated in this case. After completion of investigation, the charge-sheet has been filed. The statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows that she was willing and consenting party. The prosecutrix was not minor on the date

of incident. 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 161 of the Cr.P.C. shows that she was not a consenting party and further, she was minor on the date of incident, therefore, her consent and willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. Notice issued to the complainant for the fixed date of 28.7.2021 has been returned served but there is no appearance or representation.

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, kept her in his custody and then exploited her sexually knowing well that she is not competent to such consent. Hence, this case.

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., 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