

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4678 of 2021**

1. Hemchand Verma, S/o Chandraprakash Verma Aged About 20 Years R/o Village Ghotwani, Police Station and Tahsil Dhamdha, District-Durg, Chhattisgarh
2. Chandraprakash @ Mukesh S/o Poshanlal Verma Aged About 45 Years R/o Village Ghotwani, Police Station and Tahsil Dhamdha, District-Durg, Chhattisgarh

---- Applicants**Versus**

1. State of Chhattisgarh Through Station House Officer, Police-Station-Chuikhadan, District-Rajnandgaon, Chhattisgarh

---- Respondent

For Applicants	: Mr. Abhishek Sharma, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****02/08/2021**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.138/2021 registered at Police-Station-Chuikhadan, District-Rajnandgaon(C.G.) for the offence punishable under Sections 363, 366,376, 376(2)(F) of IPC and Sections 4 & 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. They are in jail since 16.06.2021. The FIR lodged is totally false because of the

dispute between the parties. Subsequently, the dispute has been resolved, therefore, the complainant has filed an affidavit in support of this bail application and also the complainant and the prosecutrix have no objection in grant of bail to the applicant. The statement of prosecutrix under Section 164 CrPC shows that she had willingly gone, resided and had physical relation with the applicants, therefore, it is prayed that this applicants 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 prosecutrix was minor, therefore, her willingness and consent is immaterial. The submission regarding the resolution of dispute is the defence of applicants which cannot be considered in this bail application. There is clear allegation against the applicant in the statement of prosecutrix under Section 161 CrPC, hence, the application be rejected.
4. The Complainant Chandresh Verma had virtually present before this Court through the 'Help Desk' of DLSA, Rajnandgaon on 26.7.2021. He has stated that he has no objection in grant of bail to these applicants.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that on the date of incident the applicant No.1 with the help of applicant No.2 abducted the minor prosecutrix, took her to his own house where he had forceful physical relation with her, in which, applicant No.2 has aided and abetted. Hence, this case.

7. Considered on the submissions. Looking to the statement of prosecutrix under Section 164 CrPC and also an affidavit that has been filed by the complainant in support of this application along with his no objection in this case, I feel inclined to allow the bail application of this applicants.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicants shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/-each 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