

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 4724 of 2021**

Nitesh Chouhan, S/o. Late Ramlal Chouhan, aged about 21 years, R/o. Village Putupara (Rajpur), Tehsil and Police Station Lailunga, District Raigarh Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Police Station Lailunga, District Raigarh Chhattisgarh.

---- Respondent

For Applicant : Mr. Ashutosh Mishra, Advocate

For Respondent/State : Ms. Hamida Siddiqui, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/08/2021

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.160/2021, registered at Police Station – Lailunga, Raigarh, District – Raigarh (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 4 & 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 07.06.2021. The statement of the prosecutrix under Section

164 of Cr.P.C. reflects that she was willing and consenting party. Further she was not a minor on the date of incident, therefore, there is no case present against this applicant. Hence, it is prayed that the applicant may be released 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 of age below 18 years, therefore, her consent or willingness on her part is immaterial. Therefore, the application be rejected.
4. The notice issued to the complainant, which was returned served for 18.08.2021, but there was no appearance and no representation from the complainant side.
5. I have heard the learned 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 for sometime and also exploited her sexually knowing well that she was minor and not capable to give valid consent.
7. Considered on the submissions. Looking to the statement of the prosecution recorded under Section 164 of Cr.P.C. this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram