

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 4708 of 2021**

1. Mahavir Dhurve S/o Jodhan Dhurve Aged About 22 Years R/o Village Bhelki, Police Station Kukdur, District Kabirdham Chhattisgarh
2. Ramkumar Padwar S/o Late Premlal Padwar Aged About 18 Years R/o Village Bhelki, Police Station Kukdur, District Kabirdham Chhattisgarh

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

State Of Chhattisgarh Through Station House Officer, Police Station Kukdur  
District Kabirdham Chhattisgarh.

**---- Respondent**


---

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

---

**Hon'ble Shri Justice Rajendra Chandra Singh Samant****ORDER****11.08.2021**

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 applicants who have been arrested in connection with Crime No.51 of 2021, registered at Police Station – Kukdur, District – Kabirdham, Chhattisgarh for the offence punishable under Section 363, 366 and 376(2)(n), 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 applicants submits that the applicants are in jail since 12.6.2021 and have been falsely implicated in this case. The statement of the prosecutrix under Sections 161 and 164 of the Cr.P.C. are

contradictory to each other. Specifically, in the statement under Section 164 of the Cr.P.C. there is no allegation made against the applicants by the prosecutrix. The father of the complainant also filed an affidavit before the Sessions Court making a statement of no objection for grant of bail to the applicants, which was not considered by the concerned Court. Hence, it is prayed that the applicants 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 prosecutrix had been 13 years 3 months only when the incident occurred. According to the statement of the prosecutrix under Section 161 of the Cr.P.C., no case is made out for grant of regular bail to the applicants.

4. The complainant and the prosecutrix both have appeared on notice on 28.7.2021. They made a statement that they have no objection in grant of bail to the applicants.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, it is alleged that these applicants abducted the minor prosecutrix, kept her in their custody and exploited her sexually knowing well that she is not competent to give such consent regarding which, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. The statement of the prosecutrix under Section 161 of the Cr.P.C. though makes

an allegation but her statement under Section 164 of the Cr.P.C. is contradictory and telling a new story, hence, under these circumstances, I feel inclined to grant regular bail to the applicants.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicants shall be released on bail on each of them 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 their 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