

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4728 of 2021**

- Ajay Kumar Dahariya, S/o Suresh Kumar Aged About 19 Years R/o Village Tumidih, Police Station- Hasaud, District- Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station- Malkharouda, District- Janjgir-Champa, Chhattisgarh.

---- Respondent

For Applicant : Mr. Dharmesh Srivastava, Advocate.

For State/respondent : Mr. Ajay Kumrani, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****27/09/2021**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail to him as he is in custody in connection with Crime No.13/2021 registered at Police-Station-Malkharouda, District-Janjgir-Champa, Chhattisgarh for the offence punishable under Sections 363, 366, 376 of IPC and Section 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since 01.06.2021. The prosecutrix had been a willing and consenting party, which is reflected from her statement under Section 164 CrPC. The ground of minority of the prosecutrix shall be challenged in trial,

hence, there is no case present against this applicant. Therefore, it is prayed that this applicant 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 age of the prosecutrix had been only 15 years on the date of incident. Further, she has made clear statement regarding her physical submission to the applicant, which amounts to commission of offence of rape, therefore, the application be rejected.
4. Notice was issued to the complainant for fix date i.e. 13.9.2021, which has been returned served, but there is 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. As per prosecution case, it is alleged that this applicant abducted the minor prosecutrix on pretext of marrying her and then he kept her in his custody during which he had physical relation with her on numerous occasions, knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. Looking to the facts and circumstances and also the statement given by prosecutrix under Section 164 CrPC, I feel inclined to allow the application of this applicant.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a 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.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha