

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4774 of 2021**

Dhaneshwar Toppo S/o. Shri Balmukund Aged About 25 Years R/o. Village - Taparkela, Post- Nawanagar, Thana- Darima, Distt.- Surguja (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station - Darima, Distt.- Surguja (Ambikapur) (Chhattisgarh).

---- Respondent

For the Applicant : Shri Sumit Shrivastava, Advocate.
For the Respondent/State : Shri Ankur Kashyap, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****10.09.2021**

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.79 of 2021, registered at Police Station – Darima, District – Surguja, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Sections 5(1) & 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 1.6.2021 and has been falsely implicated in this case. The prosecutrix has stated in her diary statement that there was love affair with the applicant, she had willingly gone and resided with the applicant without raising any objection until she was recovered by the police, therefore, there is no case

against this applicant. 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 Sections 161 & 164 of the Cr.P.C. mentions that she was raped by the applicant and further, she was minor of age below 16 years. Hence, he is not entitled for grant of regular bail.

4. Notice issued to the complainant/ informant 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, on the date of incident, this applicant abducted the minor prosecutrix, kept her in his custody for few days during that time, he 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. Taking into consideration the statement given by the prosecutrix herself and the other circumstances, I feel inclined to grant regular bail to the applicant in this case.

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