

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4957 of 2021**

Surendra Dahire S/o Rajendra Dahire Aged About 21 Years R/o Saawatpur,
P.S. Lalpur, District Mungeli, At Present R/o Village Dihre, P.S. Pipariya,
District Kawardha, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through SHO Police Station Balod, District : Balod,
Chhattisgarh.

---- Respondent

For the Applicant : Shri B.P. Singh, Advocate.
For the Respondent/State : Shri Alok Nigam, G.A.

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 applicant who has been arrested in connection with Crime No.111 of 2017, registered at Police Station – Balod, District – Balod, Chhattisgarh for the offence punishable under Section 363, 366 and 376(2)(dha)(3) of the Indian Penal Code and Sections 4, 5(tha) & 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 15.10.2020 and has been falsely implicated in this case. The prosecutrix was not minor and she had been a consenting party throughout. Section 164 of the Cr.P.C. reflects that the prosecutrix and the applicant both

have performed marriage. 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 prosecutrix was minor of age below 18 years on the date of incident, therefore, her consent or willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. Notice issued to the complainant for the fixed date of 4.8.2021 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, it is alleged that this applicant abducted the minor prosecutrix of age below 18 years, took her to different places and resided with her for about one year during which, he had physical relation with the prosecutrix continuously on several occasions until she was recovered by the police.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and the other circumstances present, I feel inclined to grant regular bail to the applicant.

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