

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5048 of 2021**

- Gajanand Bharti, aged about 20 years, S/o Late Manglu Ram Bharti, By Caste Satnami, R/o Village Motipur, Thana Dongargarh, District Rajnandgaon (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh, Through Police Station Dongargarh, District Rajnandgaon (C.G.)

---- Non-applicant

For Applicant	:	Shri Paraj Kotecha, Advocate.
For Non-applicant/State	:	Ms. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

23.08.2021

1. Heard on the application filed under Section 439 of Cr.P.C. This is the first bail application filed for grant of regular bail. The Applicant has been arrested on 21.03.2021 in connection with Crime No. 160 of 2021 registered at Police Station Dongargarh, District Rajnandgaon (C.G.) for the offences punishable under Sections 363, 366, 376, 376(2) (n), 506 of Indian Penal Code and under Section 4 and 6 of the 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 prosecutrix on her statement under Section 164 of Cr.P.C has stated that she was willing and a consenting party, she has also been examined in trial and not supported the prosecution. Hence, the Applicant may be granted the bail.
3. The learned counsel for the State opposes the bail application and submits that prosecutrix was a minor. Thus, she was not capable for giving consent, therefore, the application for bail may be rejected.

4. The prosecutrix is virtually present before this Court on 05.08.2021 through the Help Desk of DLSA, Rajnandgaon (C.G.) and made a statement that she has no objection to the grant of bail to the Applicant.
5. I have heard the learned counsel for the parties and perused the record.
6. According to the prosecution case, it is alleged that the Applicant abducted the minor prosecutrix and kept her in custody where he made physical relation with the prosecutrix knowing that she is minor and not capable to give consent. After that, the prosecutrix has been recovered by the Police.
7. Considered on these submissions. Taking into consideration, the facts and circumstances of the case and statement of the prosecutrix under Section 164 of Cr.P.C., and perused the copy of deposition of prosecutrix, which shows that she is a hostile witness. Therefore, I am inclined to allow this bail application. The application is allowed.
8. Consequently, the application filed by the Applicant under Section 439 of Cr.P.C for grant of regular bail is hereby allowed.
9. It is directed that the 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 Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge