

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 4894 of 2021**

Ganesh Patel, S/o. Sundarlal Patel, aged about 21 years, R/o. Village Godihari, Taluka, Sarangarh, District Raigarh Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station Sarangarh, District Raigarh Chhattisgarh.

---- Respondent

For Applicant : Mr. Raghavendra Pradhan, Advocate

For Respondent/State : Mr. Ajay Kumharani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****11/08/2021**

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.287/2021, registered at Police Station – Sarangarh, District – Raigarh (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code, and Section 4 of 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 applicant is in jail since 27.05.2021. Statement of the prosecutrix under Section 164 of Cr.P.C. reflects that there had been willing and consensual relation between the applicant and the prosecutrix. The prosecutrix was not minor on the date of incident. Further the prosecutrix has continued to

reside with the applicant and on the advice given by the aunt of the applicant, she and the applicant both had surrendered themselves to the police. Therefore, there is no case present against the applicant. Hence, it is prayed that the applicant may be released 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 age of the prosecutrix was below 18 years, therefore, her consent or willingness is immaterial. Further in statement under Section 164 of Cr.P.C., the prosecutrix had said that the applicant used to make forcible relation with her. Therefore, the application be rejected.
4. Notice was issued to the complainant for the fixed date on 09.08.2021, which was returned served, but there was 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 the prosecution case, it is alleged that this applicant abducted the minor prosecutrix, kept her in his custody and exploited her sexually knowing well that she was minor and not capable to give consent.
7. Considered on the submissions. Looking to the statement of the prosecutrix under Section 164 of Cr.P.C. and other circumstances present in the case, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram