

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5064 of 2021

- Khileshwar Prasad Nirmalkar @ Pintu, S/o Babulal Nirmalkar, Aged About 22 Years, R/o Village Bhardakala, P. S.-Arjunda, District-Balod, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through PS. Ranchirai, District-Balod, Chhattisgarh

---- Respondent

For Applicant	: Mr. Prasoon Agrawal, Advocate.
For State/respondent	: Mr. Shakti Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

05/08/2021

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.144/2020 registered at Police-Station-Ranchirai, District-Balod(C.G.) for the offence punishable under Sections 363, 366, 376(2)(N) of IPC and Section 5(ॢ)& 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. It is submitted that in the statement of prosecutrix under Section 164 CrPC there is no allegation present against this applicant. Further, the prosecutrix has

also been examined in the trial and she had not supported the prosecution case, 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 prosecutrix was minor and, further, her statement under Section 161 CrPC is clearly against the applicant, therefore, the application be rejected.
4. The prosecutrix is virtually present before this Court through the 'Help Desk' of DLSA, Balod on notice. She has stated that she has no objection in grant of bail to this applicant.
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 there is allegation that this applicant abducted the minor prosecutrix, kept her in his custody and also continuously exploited her sexually, knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. Perused the certified copy of the statement of prosecutrix under Section 164 CrPC and also her statement in trial before the Court and it is found that she has not supported the prosecution case because of which she has declared hostile. Looking to these developments in the case, I feel inclined to allow the bail 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