

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5356 of 2021

- Durgesh Kumar Khande, S/o Awadhram Khande, Aged About 20 Years Resident Of Sahaspur , Chowki Chilphi Thana Lormi, District-Mungeli Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Police Station Lormi, District-Mungeli Chhattisgarh.

---- Respondent

For Applicant	: Mr. Ankur Agrawal, Advocate.
For State/respondent	: Mrs. Hamida Siddiqui, Dy. Adv. General.
For Complainant	: Mr. S.S. Baghel, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/08/2021

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.178/2021 registered at Police-Station-Lormi, Mungeli, Chhattisgarh for the offence punishable under Sections 363, 366, 376 of IPC and Sections 4, 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. He is in jail since 28.05.2021. The prosecutrix has been examined in the trial. Although, she has made adverse statement in examination-in-chief but she has

made admission in cross-examination in favor of the applicant, therefore, there is no case against this applicant, hence, it is prayed that 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 age of the prosecutrix had been just 15 years on the date of incident, therefore, her consent and willingness is immaterial. Further, in her statement before the Court she has supported the prosecution case in her examination-in-chief, therefore, the application be rejected.
4. Mr. S.S. Baghel, counsel for prosecutrix submits that the prosecutrix has not objection in grant of bail to the applicant. The prosecutrix is also virtually present before this Court and she has also made statement that she has no objection in grant of bail to the 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 this applicant abducted the minor prosecutrix and then by keeping her in his custody, he 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 deposition of the prosecutrix and also considered the statement of no objection made by the prosecutrix herself, I feel inclined to allow the 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