

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5374 of 2021

- Kundan Yadav S/o Radheshyam yadav, aged about 19 years R/o Khairjhitti (Pachpedi) P.S. Khairagarh District Rajnandgaon (C.G.)

---- Applicant

Versus

- State Of Chhattisgarh through S.H.O. Ghumka District Rajnandgaon (C.G.)

---- Respondent

For Applicant	:	Mr. B.P. Singh, Advocate
For Respondent/State	:	Mr. Alok Nigam, Govt. 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. 71/2021 registered at Police Station Ghumka, District Rajnandgaon (C.G.) for the offence punishable under Sections 363, 366 and 376 (2) (ब) of the IPC and Sections 4 & 6 of the POCSO Act.
2. It is submitted that the applicant is innocent who has been falsely implicated in this case. The statement of the prosecutrix recorded under Section 161 and 164 of the Cr.P.C clearly shows that she was the willing and consenting party. The minority of the prosecutrix has been challenged by the applicant in trial. He further submits that the applicant is in jail since 23/05/2021, charge-sheet has been filed and

trial is likely to take some time, therefore, he prays that the applicant may be enlarged on bail.

3. Per contra, learned State counsel opposes the bail application and submits that the age of the prosecutrix was 15 years 6 months on the date of incident, therefore, her consent or willingness is immaterial. Prayer is made to reject the bail application.
4. Complainant Dev Sharan Verma has virtually appeared before this Court from the help desk of DLSA, Rajnandgaon. He has 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, the applicant allured the minor prosecutrix on the pretext of marriage and abducted her. He took her to different places and kept her with him for a long period. The prosecutrix was exploited sexually by this applicant knowing well that the prosecutrix is not capable to give consent being minor. Subsequently, when the prosecutrix was recovered, offence of abduction and rape have been registered.
7. Taking into consideration the statement of the prosecutrix recorded under Section 161 and 164 of the Cr.P.C and that the prosecutrix in this case has resided for about more than 1 year with the applicant, therefore, I feel inclined to allow this bail application and release the applicant on bail.
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

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