

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5221 of 2021**

Devanand Banjare S/o Late Gulab Banjare Aged About 24 Years R/o Village Bhandarpur, Thana Dongargarh, District Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Bagnadi, District Rajnandgaon Chhattisgarh.

---- Respondent

For the Applicant : Shri Parag Kotecha, Advocate.
For the Respondent/State : Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.09.2021**

Heard.

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.12 of 2020, registered at Police Station – Bagnadi, District – Rajnandgaon, Chhattisgarh for the offence punishable under Sections 363, 366 and 376(3) of the Indian Penal Code and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 28.2.2020 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. reveals that she was willing and consenting party throughout. Hence, there is no case against the

applicant, it is prayed that the applicant be enlarged 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 prosecutrix was below 16 years, therefore, any consent of the prosecutrix in such a case is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Santosh Yadav is present before this virtual Court through the Help-Desk of DLSA, Rajnandgaon. He made a statement that he has objection in grant of bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, this applicant allured the minor prosecutrix with a promise to marry her and then he abducted her and took her to various places after performing sham marriage with her. He also had physical relation with the minor prosecutrix on several occasions knowing well that she is not competent to give such consent.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and other circumstances, I feel inclined to grant bail to the applicant in this case.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge