

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5324 of 2021**

Yogesh Kumar Bhardwaj S/o Krishna Bhardwaj (Wrongly Mentioned As Krishan Bhardwaj In Order Sheet) Aged About 20 Years R/o Arjholi Colony, Sahdol P.S. Khairaha District Sahdol (M.P.).

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Kotara Road, Raigarh, District Raigarh Chhattisgarh.

---- Respondent

For the Applicant : Shri Abhishek Sharma, Advocate.
For the Respondent/State : Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****24.08.2021**

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 2019, registered at Police Station – Kotara Road, District – Raigarh, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 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 28.1.2019 and has been falsely implicated in this case. The trial against the applicant is pending since more than two years and still it is not complete. The statement of the prosecutrix under Section 164 of the Cr.P.C. reflects that the relationship of the applicant with the prosecutrix was

consensual. The prosecutrix has also examined in the trial and she has made a similar statement. The prosecutrix was not minor on the date of incident. Hence, 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 prosecutrix was minor of age below 18 years on the date of incident and there is her clear statement under Section 164 of the Cr.PC. and also before the Court regarding her minority, therefore, any consent or willingness by her is of no consequence. Hence, no case is made out for grant of bail to the applicant.

4. Notice issued to the complainant/ informant has been returned served for today but there is no appearance or representation.

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

6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix on 14.1.2019 regarding which, a missing report was lodged by her father on 19.1.2019 and the prosecutrix was recovered on 28.1.2019, according to her statement, she was abducted and exploited sexually by this applicant. Hence, this case.

7. Considered the submissions and the facts present in this case. Taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C. and also considering the fact that the applicant is in jail since

more than two years and the trial against him is still not concluded, therefore, I feel inclined to grant regular 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