

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 5814 of 2021**

- Mahandra Sahu S/o Dhalsingh Sahu aged about 22 Years R/o Ward No. 11, Ranchirai, P.S. Ranchirai, District Balod Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh through: Station House Officer Police Station Gunderdehi, District Balod Chhattisgarh.

-----Non-applicant

For Applicant	: Mr. Avinash Chand Sahu, Advocate
For Non-applicant/State	: Ms. Hamida Siddqui, Dy. A.G.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****04/10/2021**

1. Applicant has filed this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 34/2021 registered at Police Station Gunderdehi, District Balod (C.G.) for the offence punishable under Sections 363, 366, 376(2)(n) of IPC and Section 5(l), 6 of POCSO Act.
2. Case of the prosecution is, that on 27.02.2021, father of prosecutrix lodged missing report of her daughter before the concerned police station stating therein that in the morning at about 9:30 am, prosecutrix stating that she was going to appear in the examination in her school left the house but thereafter she did not return back. Complainant searched his daughter on several places but she was not found, report was lodged to the concerned police station. During the course of investigation, police recovered the girl from Hyderabad on 24.03.2021 residing along with the applicant. After recording statement of prosecutrix, aforementioned crime was registered against applicant.

3. Mr. Avinash Chand Sahu, learned counsel for the applicant submits that after filing of charge-sheet and rejection of bail application by the Court below, statement of prosecutrix was recorded in trial where she did not support the case of prosecution. He submits that the prosecutrix has stated that she with her own will went to Hyderabad by bus and denied her relationship with applicant as well. Applicant is in jail since 24.03.2021, hence, he may be enlarged on bail.
4. Ms. Hamida Siddqui, learned State counsel, while opposing the submissions made by the learned counsel for the applicant, submits that the applicant abducted prosecutrix who was below 18 years of age and on the date of incident, 17 years only. Applicant has established physical relationship with her at different places, hence, he is not entitled for grant of bail. Learned counsel in support of her contention read-over the statement of prosecutrix recorded under Section 164 of CrPC.
5. I have heard learned counsel for the parties.
6. Taking into consideration, nature of allegation, statement of prosecutrix recorded by the trial Court on 30.07.2021, period of pre-trial detention of applicant, without commenting anything on merits, I am inclined to allow the bail application.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with surety in the like sum to the satisfaction of the Court on the conditions that-
 - a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in the

future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Pawan