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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5570 of 2021**

1. Jagdhari Singh S/o Naval Singh Aged About 19 Years R/o Gram Kamarjee, Polie Station Kotadol, Tehsil- Bharatpur, District- Koriya, Chhattisgarh.
2. Naval Singh S/o Harvansh @ Harband Aged About 48 Years R/o Gram Kamarjee, Police Station Kotadol, Tehsil-Bharatpur, District- Koriya, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Thorough Station House Officer, Police Station Kotadol, District- Koriya, Chhattisgarh.

---- Respondent

For the Applicants : Shri Anuroop Panda, Advocate.
 For the Respondent/State : Shri Ajay Kumrani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.09.2021**

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 applicants who have been arrested in connection with Crime No.20 of 2021, registered at Police Station – Kotadol, District – Koriya, Chhattisgarh for the offence punishable under Sections 341, 506, 342, 363, 366, 368 and 376(2)(N) of the Indian Penal Code and Sections 4, 6 & 17 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicants submits that the applicants are in jail since 12.6.2021 and have been falsely implicated in this case. The prosecutrix has been examined in the trial and she has stated in her cross-examination that after her abduction by applicant No.1 she was kept in his

house, which is in the neighbourhood of the house of her parents. She has also admitted that she had opportunities to go outside the house for answering the call of nature and also for bringing water but she did not make any attempt to go back to her parents or to the police, therefore, it was totally willing and consensual relationship of her with applicant No.1. Applicant No.2 had been made as an accused because he is the father of applicant No.1. Hence, it is prayed that the applicants 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 is not a hostile witness before the trial Court and she has supported the prosecution case in her examination-in-chief. Further, she was minor of age 15 years 10 months, therefore, her consent or willingness is immaterial. Hence, no case is made out for grant of bail to the applicant.

4. The prosecutrix was virtually present before this Court on 2.9.2021 and she has made a statement of no 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, it is alleged that applicant No.1 abducted the minor prosecutrix on the point of a knife and then kept her in confinement in his own house, where on pretext that he will marry her had physical relation with her on numerous occasions which amounts to rape knowing well that she is not competent to give such consent. After keeping

the prosecutrix for one year in his house, the applicant has driven the prosecutrix out of his house, subsequent to which, FIR has been lodged.

7. Considered the submissions and the facts present in this case. Looking to the circumstances and also the case is pending for trial, I feel inclined to grant regular bail to the applicants.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicants shall be released on bail on each of them 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 their 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