

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5908 of 2021

- Devendra Sahu @ Rahul, S/o Late Khedu Ram Sahu, Aged About 26 Years, R/o Village Pachari, P.S. and Tehsil-Bilaigarh, District- Baloda Bazaar, Present Address- Mandir Hasaud Railway Colony, P.S. Mandir Hasaud, District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through- Police Station Supela Out Post Smriti Nagar, District : Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Uttam Pandey, Advocate.

For State/respondent : Ms. Shivali Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/09/2021

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.152/2021 registered at Police-Station-Supela, Out Post Smriti Nagar, District-Durg, Chhattisgarh for the offence punishable under Sections 363, 366, 376 of IPC and Section 4, 5 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. He is in jail since

28.02.2021. The minority of prosecutrix is disputable her statement under Section 164 CrPC shows that she was consenting party, therefore, there is no case present against the applicant and the trial against the applicant is not making progress, hence, it is prayed that this applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that on the date of incident the age of prosecutrix had been only 14 years and 8 months, therefore, her consent and willingness on her part is immaterial.
4. Notice issued to the complainant has been returned served for date 10.9.2021 but there is no appearance and no representation.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per prosecution case, it is alleged that the minor prosecutrix visited the house. The minor prosecutrix was abducted by the applicant she was taken to his house where she remained his custody for about two days during which period he had physical relation with prosecutrix, knowing well that she was not capable to give consent for such relation being minor.
7. Considered on the submissions. Looking to the facts and circumstances that are present in the case, I feel inclined to allow the application of this applicant.
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

Nisha