

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 5639 of 2021**

- Rakesh Yadav, S/o Kanwal Singh, Aged About 22 Years, R/o Ward No. 15, Khopli Police Station Utai, District-Durg, Chhattisgarh

**---- Applicant**

**Versus**

- State of Chhattisgarh Through Station House Officer, Police Of Police Station Utai, District-Durg, Chhattisgarh

**---- Respondent**

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| For Applicant        | : Mr. Purnendra Khichariya, Advocate. |
| For State/respondent | : Mr. Ajay Kumrani, PL for State.     |

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

**Order On Board**

**16/09/2021**

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.170/2021 registered at Police-Station-Utai, District-Durg, Chhattisgarh for the offence punishable under Sections 363, 366, 376, 376(2)(b) of IPC and Sections 5(b), 6, 4 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 15.06.2021. Charge-sheet has been filed. The statement of prosecutrix under Section 161 CrPC shows, that the prosecutrix had willingly gone to the place of the applicant and residing with him and also had

physical relation with him, however, her statement under Section 164 CrPC is improved which makes her unreliable witness, therefore, there is no case present against this applicant, 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 the prosecutrix was minor of age below 18 years, and secondly in her statement under Section 164 CrPC there is clear allegation that the applicant has forcibly raped her, therefore, hence, the application be rejected.
4. The father of prosecutrix was virtually present before this Court through the 'Help Desk' of this Court on 03.09.2021. He has stated that he has objection in grant of bail to this applicant.
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 this applicant abducted the minor prosecutrix on pretext of marrying her, and then by keeping her in his custody he exploited her sexually on more than one occasions.
7. Considered on the submissions. As it appears that in the statement of prosecutrix under Section 164 CrPC there is some improvement and also that there is likelihood of delay in trial, for these reasons, 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**