

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5930 of 2021**

Amar Singh, aged about 19 years, Caste-Gond, S/o Shri Somaru, R/o Vill. Gangoti,
Police Outpost – Basdei, P.S. Surajpur, Distt. - Surajpur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through : Police Outpost – Basdei, Police Station – Surajpur,
District Surajpur (C.G.)

----Respondent

For Applicant	:	Mr. Shashi Bhushan Tiwari, Advocate.
For Non-applicant	:	Ms. Anjali Singh Chouhan, Panel Lawyer.

Hon'ble Mr. Justice N.K. Chandravanshi**Order On Board****26-10-2021**

(1) The accused/applicant has preferred this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail in connection with Crime No. 09/2021 (Special Sessions Trial No. 13/21) registered at Police Station Outpost-Basdei, Police Station – Surajpur, District Surajpur for the offence punishable under Sections 363, 366, 376(2)(ढ) of the IPC and Section 4 & 6 of Protection of Children from Sexual Offences Act, 2012 (for short “POCSO Act”).

(2) Case of the prosecution, in brief, is that applicant abducted the minor victim/prosecutrix on 23.12.2020 and taken her to Gujarat and there committed sexual intercourse course with her repeatedly. On being report lodged by father of victim/prosecutrix, FIR under Section 363 of the IPC was registered at police outpost Basdei, P.S. Surajpur, Distt. - Surajpur. After recovery of victim/prosecutrix from the possession of the applicant, charge-sheet under Sections 363, 366, 376(2)(ढ) of the IPC and Section 4 & 6 of the POCSO Act has been filed, which is pending before the trial Court.

(3) Learned counsel for the applicant would submit that the applicant is a villager boy, he

has not committed the alleged offence. It is a case of love affair between victim/prosecutrix and the applicant and the victim/prosecutrix herself had left her house under the influence of aforesaid love affair, which is evident from her statement recorded under Section 164 of the CrPC. He would next submit that at the time of incident, victim/prosecutrix was not minor and the ossification test report has not been filed by the prosecution. Victim/prosecutrix & her father have been examined before the trial Court and they have turned hostile and not supported the case of the prosecution. He would also submit that the applicant is in detention since 12.01.2021 and conclusion of the trial will likely to take long time, therefore, the applicant may be enlarged on regular bail.

(4) On the contrary, learned counsel appearing for the State while opposing the submission made by counsel for the applicant would submit that at the time of incident, victim/prosecutrix was minor, despite that applicant had abducted her and continuously committed sexual intercourse with her. He would next submit that victim/prosecutrix and her father have not been declared hostile in toto and they have supported the case of the prosecution to some extent, therefore, the applicant is not entitled to be released on bail.

(5) Victim/prosecutrix and her father appeared before this Court through Video Conferencing from District Legal Service Authority, Surarajpur and they have submitted that they have no objection with regard to bail application filed by the applicant.

(6) Considering the totality of the facts & circumstances of the case, particularly, submission of "no objection" made by the victim/prosecutrix and her father with regard to bail application filed by the applicant; their deposition recorded before the trial Court, in which, they have not supported the case of the prosecution and have been declared hostile by the prosecution, age of the applicant i.e. 19 years and his detention period, I feel inclined to grant bail to the applicant. Accordingly, the bail application is allowed.

(7) Accused/applicant is directed to be released on bail on his executing a personal bond for a sum of Rs.50,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court.

Sd/-

(N.K.Chandravanshi)
Judge

