

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5756 of 2021**

Bhagwat Mandle, S/o. Radhelal Mandle, aged about 21 years, R/o. Chhitapur, District Malajkhand (Malakhand) (M.P.).

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Kawardha, District Kabirdham Chhattisgarh.

---- Respondent

For Applicant : Mr. Malay Shrivastava, Advocate

For Respondent/State : Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

07/09/2021

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 applicant, who has been arrested in connection with Crime No.321/2021, registered at Police Station – Kawardha, District – Kawardha (C.G.) for the offence punishable under Section 363, 366, 376 (2) (N) of the Indian Penal Code and Section 4, 6 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 27.05.2021. The statement of the prosecutrix under Section 164 of Cr.P.C. clearly shows that there had been love affair between

the applicant and the prosecutrix then they both have married and resided together. The father of the prosecutrix came with the police and recovery of the prosecutrix was made from possession of the applicant. The prosecutrix was not minor. Hence, it is prayed that the applicant may be released 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 age of the prosecutrix had been below 18 years on the date of incident, therefore, any consent or willingness on her part is immaterial. Therefore, the application be rejected.
4. The prosecutrix is virtually present before this Court on notice through the Help Desk of D.L.S.A. Kabirdham. She has no objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. As per the prosecution case, this applicant abducted the minor prosecutrix, kept her in his custody for some time and then exploited her sexually knowing well that she was minor and thus not capable of giving consent.
7. Considered on the submissions. Taking into consideration, the statement of the prosecutrix under Section 164 of Cr.P.C. and other circumstances present and also that the prosecutrix herself has no objection in grant of bail to the applicant, hence for this reason, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that applicant shall be released on bail on his 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 his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram