

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5987 of 2021**

Vishnu Pancholi S/o Suklal Aged About 24 Years R/o Village Katafod,
District Dewas Madhya Pradesh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
Urga , District Korba Chhattisgarh.

---- Respondent

For the Applicant : Ms. Madhunisha Singh, Advocate.
For the Respondent/State : Smt. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****13.09.2021**

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 applicant who has been arrested in connection with Crime No.8 of 2021, registered at Police Station – Urga, District – Korba, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 23.1.2021 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. mentions that she and the applicant became face-book friends then, on the proposal given by the applicant, she and the applicant both eloped and traveled to Nagpur, Bhopal

and Indore etc. She has also stated about the performance of marriage with the applicant and then, they continued visiting places. Lastly, they resided in Bangalore and there the applicant had physical relation with the prosecutrix with her consent. The statement of the prosecutrix is similar before the Child Welfare Committee, therefore, it shows that there is no offence committed by this applicant. The applicant intends to challenge the ground of minority of the prosecutrix in the trial. He is in jail since more than 8 months and the trial against the applicant has not made any progress. Hence, it is prayed that the applicant 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 has been of age below 16 years on the date of incident, therefore, her consent or willingness is immaterial. The statement of the prosecutrix under Section 161 of the Cr.P.C. is clearly against the applicant. Hence, he is not entitled for grant of regular bail.

4. The prosecutrix is physically present before this Court on notice and she has 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, the applicant allured the minor prosecutrix with a promise to marry her subsequent to which, he abducted her, took her to different places, performed the marriage and exploited her sexually. Hence, this case.

7. Considered the submissions and the facts present in this case. Taking into consideration the statement of the prosecutrix under Section 164 of the Cr.P.C., I feel inclined to grant regular bail to the applicant in this case.

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. 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