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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6074 of 2021**

Mohd. Sarfaraz Hussain, S/o. Gulam Mohiuddin, aged about 23 years, R/o. Village Balomominpura, Near Nurani Masjid, P.S. Ambikapur, Distt. Surguja (Chhattisgarh).

---- Applicant**Versus**

State of Chhattisgarh, Through : the Station House Officer, Police Chowki Manipur, P.S. Ambikapur, Distt. Surguja (Chhattisgarh).

---- Respondent

For Applicant : Mr. Jitendra Shrivastava, Advocate

For Respondent/State : Mr. Ajay Kumrani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**09/09/2021**

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.504/2021, registered at Police Station – Ambikapur, Chowki - Manikpur, District – Sarguja (C.G.) for the offence punishable under Section 363, 366, 376 (2) (n), 376 (3) of the Indian Penal Code and Section 5 (घ), 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 18.06.2021. The statement of the prosecutrix under Section

164 of Cr.P.C. reflects that she willingly accompanied, travelled to different places and had physical relation with the applicant. Therefore, there is no case present against this applicant. 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 16 years on the date of incident, therefore, her willingness or consent is immaterial. Further she has made clear statement against the applicant in her statement under Section 161 of Cr.P.C. Therefore, the applicant is not entitled for grant of bail.
4. Prosecutrix is virtually present before this Court on notice through the Help Desk of D.L.S.A. Ambikapur. 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, it is alleged that this applicant abducted the minor prosecutrix, took her to different places, kept her in his custody and exploited her sexually knowing well that she was not capable to give valid consent.
7. Considered on the submissions. Looking to the statement of the prosecutrix under Section 164 of Cr.P.C. and 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