

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6332 of 2021**

Mohd. Mofiz Shah S/o Mohd. Nishar Shah Aged About 24 Years R/o Maidni,
Police Station Akbarpur, District Navada, Bihar.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Pusour,
District Raigarh, Chhattisgarh.

---- Respondent

For the Applicant : Shri Ashish Gupta, Advocate.
For the Respondent/State : Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.09.2021**

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.99 of 2021, registered at Police Station – Pusour, District Raigarh, Chhattisgarh for the offence punishable under Sections 363, 366 and 376(N) 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 11.6.2021 and has been falsely implicated in this case. The prosecutrix has stated in her statement under Section 161 of the Cr.P.C. about her love affair with the applicant. Further, the prosecutrix had gone with the applicant to different places and stayed without raising any objection

or raising any alarm, which shows that she was a consenting party by conduct, therefore, there is no case present against this applicant. 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 stated in her statement under Section 164 of the Cr.P.C. that she was exploited by the applicant without her consent and willingness. Further, the prosecutrix was minor of age below 18 years on the date of incident. Hence, the applicant is not entitled for grant of regular bail.

4. The prosecutrix/ complainant is present before this virtual Court through the Help-Desk of the DLSA, Raigarh. She made a statement that she has no 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, this applicant allured and enticed the minor prosecutrix and abducted her. The minor prosecutrix was taken to Jharkhand where the applicant exploited her sexually on number of occasions until the prosecutrix was recovered by the police.

7. Considered the submissions and the facts present in this case. Looking to the facts and circumstances that are present and also the statement of the prosecutrix in the investigation, I feel inclined to grant regular bail to the applicant.

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