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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6626 of 2021**

Suraj Netam (Dewar) S/o Vijay Dewar, Aged About 30 Years R/o Ward No. 18, Khairagarh, Police Station And Tehsil Khairagarh, District Rajnandgaon, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Police Station Chhuikhadan, District Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant : Shri S.S. Baghel, Advocate.
For the Respondent/State : Shri Ankur Kashyap, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****22.09.2021**

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.109 of 2021, registered at Police Station – Chhuikhadan, District Rajnandgaon, Chhattisgarh for the offence punishable under Sections 363, 366, 376, 376(2)(f) and 376(gha)(ka) 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 16.8.2021 and has been falsely implicated in this case. The statement of the prosecutrix under Section 164 of the Cr.P.C. clearly shows that she had been willing and consenting party. 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 was minor of age below 15 years on the date of incident, therefore, her willingness and consent are immaterial. Hence, the applicant is not entitled for grant of regular bail.

4. Complainant – Suresh Patel and the prosecutrix are virtually present before this Court through the Help-Desk of DLSA, Rajnandgaon. They made a statement that they have 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, it is alleged that this applicant abducted the minor prosecutrix and then by keeping her in his custody he exploited her sexually knowing well that she is not competent to give such consent regarding which, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. Looking to the statement of the prosecutrix under Section 164 of the Cr.P.C. and also looking to the statement of the complainant and the prosecutrix that they have no objection if the applicant is granted bail, therefore, 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