

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6824 of 2021**

- Santosh Kumar Yadav S/o Khambhan Yadav Aged About 25 Years Caste Rauat, R/o Village Hirapur , Police Station Balod, Tahsil And District Balod Chhattisgarh

---- Applicant (In jail)**Versus**

- State Of Chhattisgarh Through Station House Officer Of Police Station Balod, District Balod Chhattisgarh

---- Respondent

For Applicant	:	Shri Sanjeev Kumar Sahu, Advocate
For Respondent/State	:	Shri Raghavendra Verma, GA

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****26.11.2021**

1. Prosecutrix and her father appeared on 22.10.2021 through virtual mode from DLSA Balod and stated that they are having objection in grant of bail to applicant. It was recorded. As on the said date no one appeared for applicant, case was adjourned.
2. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No.209 of 2021 registered at Police Station Balod, District- Balod Chhattisgarh for the offences punishable under Sections 363, 366 and 376(2)(n) of the IPC and Sections 4, 5(I) and 6 of POCSO (Protection of Children from Sexual Offences) Act, 2012 and Section 3(2)(v) of SCST Act.
3. Case of the prosecution is that prosecutrix lodged a written report on 04.07.2021 making allegations against applicant that since 2019, applicant and prosecutrix came in contact through mobile phone. On 07.08.2019 applicant called prosecutrix to Balod, took her to village **Orabhata** to house of his brother and committed forceful sexual intercourse with her. Thereafter, on number of

occasions, applicant called prosecutrix and established physical relationship with her. Applicant also gave threat of her life, therefore, till 04.07.2021, she has not disclosed commission of offence by the applicant to anyone. Based on written report, crime was registered against applicant and he was arrested on 15.07.2021.

4. Shri Sanjeev Kumar Sahu, learned counsel for the applicant would submit that applicant is falsely implicated in the case. He submits that there was love affair between the applicant and prosecutrix, but it is the parents of prosecutrix, who were not agreed to their relationship. Hence, false report has been lodged. He submits that only to make grave allegations against applicant, it is alleged that for the first time, applicant has committed intercourse with her on 07.08.2019, which is absolutely false and baseless. On the date of lodging FIR, prosecutrix was above 19 years of age and is consenting party. Hence, applicant may be enlarged on regular bail.

5. Shri Raghavendra Verma, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that as per Mark-sheet seized by Police during the investigation, date of birth of prosecutrix is mentioned as 23.10.2001 and on the date of alleged first incident, ie on 07.08.2019, prosecutrix was less than 18 years of age. Hence, there is *prima facie*, involvement of applicant in commission of aforementioned crime. Applicant is not entitled for grant of bail.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations against applicant, facts and circumstances of the case, delay in lodging FIR, prosecutrix

was aged about 19 years on the date of registration of FIR and applicant is in jail since 15.07.2021, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE