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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7324 of 2020**

Rajendra Prasad S/o Shri Parmeshwar Aged About 26 Years Caste - Uraon,
R/o Village - Jobga, Police Station And Tehsil Surajpur District Surajpur
Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Surajpur, District
Surajpur Chhattisgarh.

---- Respondent

For the Applicant : Ms. Deepali Dubey, Advocate.
For the Respondent/State : Shri B.P. Banjare, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.03.2021**

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.356 of 2020, registered at Police Station – Surajpur, District – Surajpur, Chhattisgarh for the offence punishable under Sections 366(A), 376(2)(n), 506 and 323 of the Indian Penal Code and Sections 4 and 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 1.9.2020 and has been falsely implicated in this case. The case of the applicant is totally false. The statement of the prosecutrix shows that the prosecutrix in this case is a minor girl and she had been a 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 age of the prosecutrix on the date of incident was 16 years and her consent or willingness is immaterial. Hence, the applicant is not entitled for grant of bail.

4. Notice issued to the complainant/ informant has been returned served but there is no appearance or representation.

5. Heard counsel for both the parties and perused the case diary.

6. According to the prosecution case, it is alleged that the applicant and the prosecutrix both were acquainted to each other and the applicant on pretext of marrying the prosecutrix used to exploit her sexually on number of occasions. About 15 days prior to lodging of FIR, the prosecutrix was abducted by this applicant, she was then kept in his custody and exploited her sexually knowing well that she is not competent to such consent. The prosecutrix has sworn an affidavit before the notary stating that she was major and she wants to marry the applicant and the copy of the same has been filed in support of this application.

7. Considered the submissions. Looking to the circumstances that are present at this stage, 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