

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7620 of 2021**

- Krishna Mandal @ Bappa Mandal S/o Bhavesh Mandal Aged About 27 Years
R/o Gajna, Paschim Para, Police Station Hastkali, District Nadiya (West Bengal)

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

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station -
Khadgawa, District - Koriya (Chhattisgarh)

---- Respondent

For Applicant : Shri Anil Gulati, Advocate
For Respondent/State : Shri Raghavendra Verma, GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**16.11.2021**

1. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No.199 of 2019 registered at Police Station Khadgawa, District Koriya, Chhattisgarh for the offences punishable under Sections 363, 366, 376(2)(n) of the IPC and Sections 4 and 6 of POCSO (Protection of Children from Sexual Offences) Act, 2012.
2. Case of the prosecution is that father of prosecutrix lodged missing report in July, 2019. During the course of investigation, prosecutrix was recovered on 21.02.2020 from the house of applicant in West Bengal. Based on statement of prosecutrix, applicant was arrested on 29.08.2021 and since then, he is in jail.
3. Shri Anil Gulati, learned counsel for the applicant would submit that on the last date of hearing, victim/prosecutrix and her father appeared before this Court through virtual mode from the office of Legal Services Authority, Chirimiri and their averment of having no objection in grant of bail to applicant was

recorded. He further submits that prosecutrix is a major girl, applicant and prosecutrix have performed marriage and were residing as husband and wife in the house of applicant when Police went there and brought both of them to Chirimiri. He further submits that prosecutrix executed an affidavit on 31.08.2021 before Notary/Oath Commissioner, Chirimiri, wherein she mentioned her age as 20 years. She also mentioned that she is carrying pregnancy of about 8 months, and by now, she might have been blessed with a child. He submits that in the aforementioned facts, applicant may be enlarged on regular bail.

4. Shri Raghavendra Verma, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that age of prosecutrix on the date of incident was less than 18 years. Her date of birth as it appearing in school register is 10.09.2002. He also pointed out that consent of minor is of no value. Hence, submission made by prosecutrix or her affidavit cannot be taken into consideration for purpose of grant of bail.

5. I have heard learned counsel for the parties.

6. Taking into consideration facts and circumstances of the case, nature of allegations, submission made by prosecutrix and her father before this Court on 10.11.202, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

7. 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

padma