

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7773 of 2021

- Vikas Mandal S/o Khokhan Mandal Aged About 19 Years R/o Devi Chowk Patnumpara Police Station Sukma District Sukma Chhattisgarh

---- Applicant (In jail)

Versus

- State Of Chhattisgarh Through - Police Station - Sukma District Sukma Chhattisgarh

---- Respondent

For Applicant : Shri Vikas A Shrivastava, Advocate
For Respondent/State : Shri Sanjay Pathak, PL

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.27 of 2019 registered at Police Station Sukma, District Sukma, Chhattisgarh for the offences punishable under Sections 363, 366(a) and 376(3) of the IPC and Section 6 of POCSO (Protection of Children from Sexual Offences) Act, 2012.
2. Case of the prosecution is that in the intervening night of 5-6/03/2019 at about 1.30 am (midnight) prosecutrix eloped with applicant and went to Visakhapatnam, Andhra Pradesh. There, she stayed with applicant for two days and thereafter, called her father on mobile phone, seeking excuse that she came to Visakhapatnam without informing him or any family member. Applicant and prosecutrix returned to Malkangiri, where she went to house of her sister, from where prosecutrix was recovered and applicant was arrested from the house of her sister.
3. Shri Vikas A Shrivastava, learned counsel for the applicant submits that applicant has not committed any offence as alleged against him. After arrest of

applicant, prosecutrix and her father were examined before trial Court and they have not stated anything of applicant making physical relationship with prosecutrix. Applicant is in jail since 17.03.2019. There are as many as 24 enlisted witnesses, out of which only 8 witnesses have been examined by prosecution till 31.05.2021, as per his information.

4. Shri Sanjay Pathak, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that on the date of incident, prosecutrix was less than 16 years of age. Prosecutrix in her statement, has made serious allegations against applicant that she eloped with applicant and went to Visakhapatnam and also making physical relationship with applicant. However, he does not dispute the contents of Annexure A2, which is deposition sheet of prosecutrix and her father.

5. Prosecutrix is present through virtual mode and submits that applicant may be enlarged on 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, period of pre-trial detention, 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

padma