

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7874 of 2021**

- Gajendra Kumar Deshlahre S/o Heeralal Deshlahre, Aged About 21 Years R/o Khopli, Satnami Para, Chowki - Machandur, Police Station - Utai, District - Durg Chhattisgarh

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

- State Of Chhattisgarh Through - Station House Officer, Police Station - Utai, District - Durg Chhattisgarh,

---- Respondent

For Applicant	: Shri Rajesh Jain, Advocate
For Respondent/State	: Ms M Asha, PL

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**18.11.2021**

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.289 of 2021 registered at Police Station Utai, District-Durg, Chhattisgarh for the offences punishable under Sections 376 (2)(n) of the IPC and Sections 5(l) and 6 of POCSO (Protection of Children from Sexual Offences) Act, 2012.
2. Case of the prosecution is that on 15.07.2020, applicant took prosecutrix to his house and thereafter, he committed forceful sexual intercourse with her on the pretext of marriage. Father of prosecutrix brought her back to house on 03.08.2021 and thereafter, FIR was registered on 04.08.2021 by mother of prosecutrix with concerned Police Station. Based on FIR and statement of prosecutrix recorded under Sections- 161 and 164 of CrPC by the Police, applicant was arrested on 04.08.2021.
3. Shri Rajesh Kumar Jain, learned counsel for the applicant would submit that allegations levelled in FIR are absolutely false and baseless. Applicant

has been falsely implicated in the crime due to old enmity. Prosecutrix was examined before the trial Court and she has not supported the case of prosecution. Deposition sheet of prosecutrix is placed on record, vide covering memo dated 12.11.2021. Referring to the deposition sheet of prosecutrix, learned counsel for the applicant would submit that prosecutrix in her evidence, stated that applicant has not made any physical relationship with her. He submits that looking to period of pre-trial detention of applicant, he may be enlarged on regular bail.

4. Ms M Asha, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that serious allegations have been levelled against applicant in FIR, as well as in statement of prosecutrix recorded under Section 161 of the CrPC. She also submits that prosecutrix on the date of incident was less than 18 years of age, hence applicant is not entitled for benefit under Section 439 of CrPC.

5. Prosecutrix along with her parents present through virtual mode through DLSA- Durg. They stated that applicant should not be enlarged on bail.

6. I have heard learned counsel for the parties and perused documents placed on record.

7. Taking into consideration nature of allegations against applicant, entirety of facts and circumstances of the case, submission made by learned counsel for the applicant that prosecutrix turned hostile and has not supported prosecution case, she also stated that applicant has not

made any physical relationship with her, 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