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HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 7767 of 2021**

- Vikki Jaiswal S/o Ramlal Jaiswal, aged about 24 Years R/o Ward No. 22, Amakherwa, Manendragarh, Police Station Manendragarh, District Koriya, Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh Through Station House Officer, Police Station Manendragarh, District Koriya, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Shakti Raj Sinha, Advocate
For Non-applicant	: Dr. Veena Nair, Dy. Adv. Gen.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****02/12/2021**

1. Applicant has filed this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 268/2021 registered at Police Station Manendragarh, District Koriya (C.G.) for offence punishable under Section 376(2)(n), 506 of IPC & Sections 4 and 6 of POCSO Act.
2. As per case of prosecution, on 20.08.2017, when prosecutrix was minor applicant took her to house of his friend and there he committed forceful sexual intercourse with her and thereafter he established physical relationship with her on several occasions. Last physical relationship is stated to be on 19.08.2021. Prosecutrix lodged report on 01.09.2021, based on which, aforementioned crime is registered against applicant and he was arrested on 03.09.2021.
3. Mr. Shakti Raj Sinha, learned counsel for the applicant submits

that applicant has not committed any offence as alleged against him. He was falsely implicated in the crime. There was some dispute between applicant and prosecutrix when she went to *kirana* shop, hence, false allegations have been levelled against applicant. Learned counsel further submits that during pendency of trial, prosecutrix herself and her mother were examined before trial Court where they have not supported the case of prosecution. Copy of deposition sheets of both the witnesses are placed on record along with covering memo dated 08.11.2021.

4. Dr. Veena Nair, learned State counsel, while opposing the submission made by learned counsel for the applicant would submit, that specific allegations have been levelled against applicant in the F.I.R. as well as in the statement of prosecutrix recorded under Section 161 of CrPC. On the last date of incident, prosecutrix was minor, hence, applicant is not entitled for benefit under Section 439 of CrPC.
5. Prosecutrix is present along with her mother before this Court through virtual mode from District Legal Services Authority, Koriya, she submits that she is having no objection in grant of bail to applicant.
6. I have heard learned counsel for the respective parties.
7. Taking into consideration, nature of allegations, facts and circumstances of the case, submission made by learned counsel for applicant that prosecutrix and her mother had not supported the case of prosecution in their court statement and further the statement of prosecutrix, through virtual mode, before this Court, without commenting anything on merits, I am inclined to allow the

bail application.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that-

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

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

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