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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7779 of 2021**

- Pawan Kumar Bairagi (Jogi), Son of Shri Nandkumar Bairagi, aged about 24 years, R/o Village Sobhapur, Babatola, P.S. Gadasarai, District Dindouri (MP)

---- Applicant (In Jail)**Versus**

- State of Chhattisgarh, through the Station House Officer, Police of Police Station Gourela, Distict Gourrela-Pendra-Marwahi (CG)

....Non-applicant

For Applicant	:	Mr. Yogendra Chaturvedi, Advocate
For Non-applicant	:	Mr. Ashish Gupta, Panel Lawyer
For Complainant	:	Complainant in person.

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****22.11.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 25.8.2021 in connection with Crime No.323/21 registered at Police Station Gourela, District Gourela-Pendra-Marwahi (CG) for commission of offence punishable under Sections 363, 366, 354, 34 of IPC Section 8 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that on 22.8.2021 at about 11:00 a.m. prosecutrix left her house without intimating anything to any of the family members. She was searched and when her whereabouts could not be traced, complainant, brother of prosecutrix, lodged report in concerned police station based upon which crime bearing No.323/2021 is registered against unknown person for offence defined under Section 363 of IPC. During the course of investigation, prosecutrix was recovered on 24.8.2021 from the house of applicant. Statement of prosecutrix was recorded based upon which aforementioned crime is registered against applicant and he was arrested.
3. Mr. Yogendra Chaturvedi, learned counsel for applicant would submit that applicant has not committed any offence as alleged against him. Applicant is cousin of prosecutrix. Prosecutrix with her own will left her house and came to her aunt's house where applicant was also residing. Statement of prosecutrix was

recorded under Section 164 CrPC in which she has not made allegation of any nature against applicant. Applicant is in jail since 25.8.2021, hence he may be granted regular bail.

4. Per contra, Mr. Ashish Gupta, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that prosecutrix in her statement recorded under Section 161 CrPC has levelled serious allegations against applicant. On the date of incident, prosecutrix was only 15 years old, hence applicant is not entitled for grant of bail. However, he does not dispute the submission of learned counsel for applicant that in statement recorded under Section 164 CrPC, prosecutrix has not levelled allegation of any nature against applicant.
5. Complainant Budhman Singh, brother of prosecutrix, is also present in person. He submits that he is having no objection in grant of regular bail to applicant.
6. I have heard learned counsel for parties.
7. Taking into consideration facts and circumstances of case, nature of allegations levelled against applicant; submission of counsel for applicant that in statement of prosecutrix recorded under Section 164 of CrPC she has not made any allegation against applicant; statement of complainant; period of detention of applicant i.e. from 25.8.2021, without commenting anything on merits of case, I am inclined to allow this bail application.
8. Accordingly, application is allowed and 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 trial Court concerned on the conditions that;
 - a) he shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) he shall not, in any manner, tamper with the prosecution witnesses.
 - c) If 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

roshan/-