

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7940 of 2021**

- Deepak Kumar Mahant, S/o Nanhu Das Mahant, aged about 33 years, Occup.- Labourer, R/o Village Sahdevpali, Turkumuda Ward No.41 Chowki-Jutmill P.S. Kotwali, Raigarh, District Raigarh (CG)

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

- State of Chhattisgarh, through Police Station- Chowki-Jutmill P.S. Kotwali, Raigarh, District Raigarh (CG)

....Non-applicant

For Applicant	:	Mr. Sanjay Agrawal, Advocate
For Non-applicant	:	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****18.11.2021**

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 17.7.2021 in connection with Crime No.935/2021 registered at Police Station - Chowki Jutmill, PS Kotwali, Raigarh District Raigarh (CG) for commission of offence punishable under Sections 363, 366 & 376 of the Indian Penal Code and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that on 4.7.2021 prosecutrix left her house in the night. Incident was reported to concerned police station by father of prosecutrix on 6.7.2021, based upon which FIR is registered against applicant for commission of offence punishable under Section 363 of IPC. During the course of investigation, prosecutrix was recovered on 14.7.2021 from Jutmill Chattarmuda. Statement of prosecutrix was recorded based on which applicant was arrested.
3. Mr. Sanjay Agrawal, learned counsel for applicant would submit that after recovery of prosecutrix, her statement under Section 161 of CrPC was recorded in which she has not made any allegation against applicant. However, in statement of prosecutrix recorded under Section 164 of CrPC, some allegation are appearing. On 29.10.2021 prosecutrix was examined before the

trial Court, she has not supported case of prosecution. Applicant is in jail since 17.7.2021, hence he may be enlarged on regular bail.

4. Per contra, Mr. Vinod Tekam,, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that allegation against applicant of establishing forcible physical relations with prosecutrix has been made by prosecutrix in her statement recorded under Section 164 of CrPC, hence applicant is not entitled for grant of regular bail. However, upon putting specific query with regard contents of documents placed on record along with covering memo dated 18.11.2021, which is deposition sheet of prosecutrix/victim, he submits that as appearing from deposition sheet, prosecutrix has not supported case of prosecution.
5. Prosecutrix and her mother are present before this Court. They submit that they have no objection in grant of bail to applicant.
6. I have heard learned counsel for parties.
7. Taking into consideration facts and circumstances of case, nature of allegation, submission made by learned counsel for applicant that prosecutrix has not supported case of prosecution in her Court statement, 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/-