

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7948 of 2021**

- Anand Kumar Gupta, S/o Kamla Prasad Gupta Aged About 26 Years, R/o Village Indarikala, Police Station Chando, District Balrampur-Ramanujganj, Chhattisgarh

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

- State Of Chhattisgarh Through Station House Officer, Police Station Chando, District Balrampur-Ramanujganj, Chhattisgarh

---- Respondent

For Applicant	: Shri Dashrath Kushwaha, Advocate
For Respondent/State	: Shri Sanjay Pathak, PL

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**23.11.2021**

1. On 22.11.2021 prosecutrix appeared before this Court through virtual mode from DLSA- Balrampur-Ramanujganj and stated that she is having no objection in grant of bail to the applicant. Due to paucity of time, matter could not be heard finally and it is taken up today for hearing.
2. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No.36 of 2021 registered at Police Station Chando, District Balrampur Ramanujganj, Chhattisgarh for the offences punishable under Sections 363, 366 and 376(2) (n) of the IPC and Sections 4 and 6 of POCSO (Protection of Children from Sexual Offences) Act, 2012 and 3(2)(v) SC/ST Act.
3. Case of the prosecution is that on 17.06.2021 prosecutrix went to the house of applicant and thereafter, both of them went to Gurgaon and stayed together in a rented accommodation as husband and wife till the date when prosecutrix was recovered by Police during the course of investigation on

1407.2021. Based on the statement of prosecutrix and considering her age, aforementioned crime was registered against applicant and he was arrested.

4. Shri Dashrath Kushwaha, learned counsel for the applicant would submit that applicant has not committed any offence as alleged against him. Prosecutrix has stated herself to be above 18 years of age and in the statement recorded under Section 161 and 164 of CrPC, she stated that she herself went to the house of applicant and thereafter, they went to Gurgaon. Prosecutrix is consenting party. Applicant is in jail since 04.10.2021. In support of his contention, he read over statement of prosecutrix recorded under Section 164 CrPC.

5. 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 only 17 years and 8 months and thereby, applicant committed offence as alleged against him and is not entitled for regular 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, and statement of prosecutrix recorded under Section 164 CrPC, and submission of learned counsel for the applicant that prosecutrix stated herself to be above 18 years of age, 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