

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 8094 of 2021

Arjun Tiwari S/o Rajendra Tiwari Aged About 25 Years R/o Bhadwa,
Police Station Kokhraj District Kousambi Uttar Pradesh., District :
Kaushambi, Uttar Pradesh

---- Applicant

Versus

State Of Chhattisgarh Through S.H.O. Pendra Disrict Gaurela Pendra
Marwahi Chhattisgarh., District : Gaurela-Pendra-Marwahi, Chhattisgarh

---- Respondent

For Applicant	:	Shri Avinash Chand Sahu, Advocate
For Non-applicant	:	Shri Vinod Tekam, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER

25/11/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No. 14/2020 registered at Police Station- Pendra, District- Gaurela-Pendra-Marwahi (C.G.) for the offence punishable under Sections 363, 366, 376 (2) (n), 368 /34 IPC , Sections 5 (j) (ii), 5 (l) /6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution is that the prosecutrix went out of her house on 15.3.2020 without intimating anything to her family members. Father of the prosecutrix lodged missing report to the concerned police station on 23.3.2020 against unknown person, based upon

which, FIR was registered initially against unknown person for offence under Section 363 IPC. During course of investigation, prosecutrix was recovered on 22.7.2021 from Village- Bhadwa, Police Station- Kokhraj, District- Kausambi (UP) from the possession of applicant. After recovery of the prosecutrix, her statement under Section 161 Cr.P.C. was recorded and thereafter charge-sheet was filed against the applicant for alleged commission of crime under Sections 363, 366, 376, 368, 34 IPC and Section 6 of the POCSO Act. Applicant was arrested on 23.7.2021.

3. Shri Avinash Chand Sahu, learned counsel appearing for the applicant would submit that the applicant has been falsely implicated in the case. He has not committed any offence as alleged against him. Prosecutrix and her parents have been examined before the trial Court as PW-1, PW-2 and PW-3. They have not supported the case of the prosecution. Copy of their deposition sheets are placed on record along with covering memo dated 17.11.2021.
4. Shri Vinod Tekam, learned Panel Lawyer appearing for the State opposes the submissions made by learned counsel for the applicant and would submit that on the date of incident, prosecutrix was only 17 years of age. The applicant has established physical relationship with her and the prosecutrix also delivered a child as appearing from her statement recorded under Section 161 Cr.P.C. and Section 164 Cr.P.C. Hence, there is prima facie involvement of the applicant in aforementioned crime.
5. The prosecutrix is present in person. She submits that she is having

no objection in grant of bail to the applicant.

6. I have heard learned counsel for the parties.
7. Considering the nature of allegation, facts and circumstances of the case, submission made by learned counsel for the applicant that the prosecutrix and her parents have not supported the case of prosecution, statement of the prosecutrix present before this Court, without commenting anything on merits, I am inclined to enlarge the applicant on regular bail.
8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon his furnishing a bail bond in the sum of Rs.25,000/- with one local 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