

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8245 of 2021**

Sanjay Gautam, S/o Shri Ram Awadh Prasad Singh, Aged About 22 Years, R/o Village Sersiya, P.S. Kasiya, District Kusinagar (U.P.)

Present Residence of Shahid Nagar Birgaon, Thana Urla, District Raipur, Chhattisgarh

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station Urla, District Raipur, Chhattisgarh

---- Non-applicant

For Applicant : Mr. Sunil Sahu, Advocate

For Non-applicant/State : Mr. Raghvendra Verma, G.A.

Prosecutrix and her father is present through virtual mode from District Legal Services Authority, Raipur.

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**26.11.2021**

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 31.10.2020 in connection with Crime No.365 of 2020 registered at Police Station Urla, District Raipur (C.G.) for commission of offence punishable under Sections 363, 366, 376, 506 of IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences, Act, 2012.
2. Case of the prosecution, in brief, is that on 29.10.2020, father of prosecutrix found prosecutrix missing from her house, on which, he lodged a report to concerned Police Station. Based on the report, crime was registered against the applicant initially for

offence under Section 363 of IPC. During course of investigation, prosecutrix was recovered on 30.10.2021 from possession of applicant. After recording of statement of prosecutrix, offences under Section 376 of IPC and POSCO Act are also added. Charge-sheet was filed.

3. Mr. Sunil Sahu, learned counsel for the applicant would submit that applicant was tenant in the house of complainant/father of prosecutrix. Due to some dispute, false allegations have been levelled against the applicant and he has not committed any offence as alleged against him. He is in jail since 31.10.2020 for last more than one year. Prosecutrix and her father was examined by the trial Court and they have not supported the case of the prosecution, hence, applicant may be enlarged on bail. Deposition-sheet of father of prosecutrix is filed as Annexure A/2 and deposition-sheet of prosecutrix is filed along with covering memo date 30.10.2021.
4. Mr. Raghvendra Verma, learned State Counsel opposing the submissions made by learned counsel for the applicant, would submit that on the date of incident, prosecutrix was aged about only 13 years. There are specific allegations in the statement recorded under Section 161 and 164 of Cr.P.C. of prosecutrix, hence, applicant is not entitled for the benefit under Section 439 of Cr.P.C.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, further submissions of learned counsel for

the applicant that complainant and prosecutrix have not supported the case of prosecution based on certified copies of deposition-sheets placed on record and period of pretrial detention of applicant, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.

7. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the 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 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