

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8045 of 2021**

- Ravi Shankar Nagesiya S/o Chalit Nagesiya Aged About 23 Years R/o Pasta, Police Station Pasta, District Balrampur Chhattisgarh.

---- Applicant***Versus***

- State Of Chhattisgarh Through Police Station S.H.O. Ambikapur, District Surguja Chhattisgarh.

---- Respondent

For Applicant : Shri Satyendra Srivas, Advocate
 For respondent/State : Shri Sameer Oraon, Govt. Advocate

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****11.11.2021.**

1. This is first bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested on 04.9.2021 in connection with Crime No.650/2021 registered at Police Station Ambikapur Distt. Surguja (C.G.), for the offence punishable under Sections 363, 366, 376(2)(b) & 376 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 5(b)/6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

2. Brief facts of the case are that on 23.7.2021 the applicant went to the house of the victim/prosecutrix and in the presence of her sister, he abducted the victim/prosecutrix, took her to Bhopal and on the pretext of marriage he repeatedly made physical

relation with her. On report, being lodged by mother of the victim/prosecutrix, present crime was registered. On 02.9.2021 after recovery of the victim/prosecutrix from the possession of present applicant, charge sheet under Sections 363, 366, 376(2)(b) & 376 of IPC and Sections 5(b)/6 of the POCSO Act has been filed against the applicant.

3. Learned counsel for the applicant submits that the applicant is innocent, he has not committed the alleged offence and he has been falsely implicated in the crime. Mother of the victim/prosecutrix has submitted affidavit before the Court below that victim/prosecutrix had gone to Bhopal on her own wish and no body allured her to do so and no any wrongful act has been committed against her. She has also stated in the affidavit that she has no objection if bail is granted to the applicant. Learned counsel for the applicant further submits that the applicant is in jail since 04.9.2021, charge sheet has been filed, therefore, the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application and submits that it is a case of abduction of minor prosecutrix and also repeatedly committing rape with her. Looking to the heinousness of the crime, the applicant is not entitled for grant of bail.

5. The victim/prosecutrix appeared along with her mother before this Court through virtual mode from District Legal

Services Authority, Ambikapur and they submitted that they have no objection if the bail is granted to the applicant.

6. I have heard learned counsel for both parties, perused the case diary as well as the copy of charge sheet enclosed with the case diary.

7. Perusal of the case diary shows that despite objection made by elder sister of the victim/prosecutrix, the applicant took the victim/prosecutrix by holding her hands and also made repeated physical relation with her, who was minor at that time. Although the victim/prosecutrix and her mother have stated no objection with regard to the bail application filed by the applicant, but their statement has not been recorded before the trial Court and even recording of evidence of the prosecution witnesses has not been started yet. Considering the above facts and circumstances of the case, nature and gravity of the offence, I do not feel inclined to allow the bail application. Therefore, the application under Section 439 of the CrPC is hereby rejected. However, the applicant may revive his prayer for grant of bail after recording the statement of material witnesses.

Certified copy as per rules.

Sd/-

(N.K. Chandravanshi)
JUDGE