

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8162 of 2021**

- Ajay @ Chhotu Vishwakarma S/o Shri Munna Vishwakarma Aged About 20 Years R/o Village Ramnagar, Police Station Bishrampur , Tahsil And District Surajpur Chhattisgarh

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

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Bishrampur, District Surajpur Chhattisgarh

---- Respondent

For Applicant	: Shri Anil Gulati, Advocate
For Respondent/State	: Ms M Asha, PL

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**24.11.2021**

1. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No. 120 of 2021 registered at Police Station Bishrampur, District-Surajpur Chhattisgarh for the offences punishable under Sections 363, 366 and 376(2)(n) of the IPC and Section 6 of POCSO (Protection of Children from Sexual Offences) Act.
2. Case of the prosecution is that on 28.06.2021 prosecutrix was hiding herself from her parents in a dilapidated house. When she saw applicant crossing that house, she called him and thereafter, she eloped with him. They went to Sonpur, Pandopara, where they resided in the house of Likhan Chaudhari. When prosecutrix was not traced, her father lodged report on 12.07.2021, based upon which aforementioned crime was registered against applicant. During the course of investigation, Police recovered prosecutrix from the company of present applicant at village Sonpur, Pandopara and he was arrested.

3. Shri Anil Gulati, learned counsel for the applicant submits that applicant has not committed any offence as alleged against him. Prosecutrix stated herself to be a major girl and as per statement recorded under Section 161 and 164 of CrPC, it was the prosecutrix, who called applicant, and thereafter, she accompanied him. Applicant is in jail since 25.09.2021, hence, he may be enlarged on regular bail.

4. Ms M Asha, learned counsel for the State opposing the submission made by learned counsel for the applicant submits that on the date of incident, age of prosecutrix was 17 years six months, ie less than 18 years of age, hence, consent of prosecutrix is immaterial and *prima facie*, applicant is involved in commission of aforementioned crime. In support of her contention, she read over statement of prosecutrix recorded under Section 161 and 164 of CrPC.

5. Prosecutrix is present along with her mother through virtual mode from DLSA Surajpur. She submits that she is having objection in grant of bail to the applicant.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations against applicant, submissions made by learned counsel for the applicant as well as learned State counsel, and the statement of prosecutrix recorded under Sections 161 and 164 of CrPC, 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