

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No. 4623 of 2015**

Gurmukhdas Jumnani, son of Late Gopichand Jumnani, aged 45 years, R/o House No.153, Deepak Nagar, Near Railway Station, P.S. Mohan Nagar, Durg, District Durg (CG)

---Applicant**Versus**

State of Chhattisgarh, Through Station House Officer, Police Station Somni, District Rajnandgaon (CG)

---Non-applicant

For Applicant	:	Dr.N.K.Shukla, Senior Advocate with Mr.Shantanu Kumar, Advocate
For-Non-applicant	:	Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****22/09/2015**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.102/2015, registered at Police Station-Somni, District-Durg (CG), for the offence punishable under Sections 450, 363, 366, 376 (ड)(ज) of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution, in brief, is that the present applicant is alleged to have abducted/kidnapped the minor prosecutrix and committed forceful sexual intercourse with her twice from first week of May, 2015 to first week of June, 2015 and thereby committed the aforesaid offence.

3. Learned Senior Advocate for the applicant would submit that applicant has not committed any offence and has been falsely implicated in

the case, which is apparent that date of commission of offence is not indicated in the F.I.R., F.I.R. is delayed by more than one month and there is no explanation as to why delay has been caused. According to the radiologist report, age of the prosecutrix is 17 years and according to statements of father Ganesh Ram Lalwani and grandmother of the prosecutrix, age of the prosecutrix is more than 17½ years and there is no evidence of committing rape with the prosecutrix, which is apparent from medical report and entire false case has been registered against the applicant. He would also submit that the prosecutrix has several opportunities to inform the commission of offence to her father and grandmother and as such, delay is unexplainable. The applicant is in jail since 30.6.2015, charge-sheet has already been filed and therefore, he may be enlarged on bail.

4. On the other hand, learned State counsel would oppose the bail application and submit that according to dakhil kharij register, age of the prosecutrix is only 14 years and 3 months and according to radiologist report, her age is 17 years and still she is minor. He would further submit that the applicant has committed forceful sexual intercourse twice in a month and on account of threatening given by the applicant to upload her obscene photographs, delayed F.I.R. has been lodged and looking to the age of the prosecutrix, the applicant is not entitled to be released on bail.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; particularly considering the age said to be minor i.e. 14 years and 3 months as per material collected by the prosecution and even according to radiologist report age of the prosecutrix was 17 years on the date of alleged occurrence and

the manner in which the applicant is said to have committed forceful sexual intercourse with her, this Court is not inclined to release the applicant on regular bail at this stage.

7. Accordingly, bail application filed under Section 439 of the Cr.P.C. is rejected. However, the applicant is at liberty to repeat the bail application after examination of material prosecution witnesses.

8. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-