

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4035 OF 2015**

Bhupendra Jangde Son of Jagdish Jangde, aged about 24 years, resident of Village-Sivni, Police Station-Nawagarh, District-Beemtara (CG)

---Applicant

Versus

State of Chhattisgarh Through: Station House Officer, Police Station-Nandghat, District-Bemetara (CG)

---Non-applicant

For Applicant	:	Mr. K.A.Ansari, Senior Advocate with Mr.Vipin Singh Thakur, Advocate.
For-Non-applicant	:	Mr. Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

26/08/2015

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.43/2015, registered at Police Station-Nandghat, District-Bemetara (C.G.), for the offence punishable under Sections 363, 366 & 376 of the IPC and Section 5 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution, in brief, is that, the applicant has allegedly kidnapped the prosecutrix on 8.1.2015 and committed sexual intercourse with her till the date of lodging of F.I.R. i.e. 7.2.2015 and thereby committed the aforesaid offence.

3. Learned counsel for the applicant would submit that applicant has not committed any offence and he has been falsely implicated in the case. He would further submit that in fact, the applicant has married with the prosecutrix and she is

major and consenting party, which is apparent from Annexure A/4 issued by the Head-Master, Government Primary School, there is no medical evidence and no useful purpose would be served by detaining the applicant in jail. He would also submit that it is apparent from the statement of the prosecutrix that she has gone with the applicant voluntarily and the applicant has not kidnapped her, therefore, the applicant may be released on regular bail.

4. On the other hand, learned State counsel would oppose the prayer for grant of bail and submit that the prosecutrix was minor on the date of commission of offence i.e. 16 years and 6 months, which is apparent from birth certificate available in the case diary. He would further submit that marriage has not been taken on the date of kidnapping her, therefore, subsequent fact, if any, does not give any benefit to the applicant and therefore, his bail application deserves to be rejected.

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 and the manner in which the prosecutrix, who is said to be minor on the date of commission of offence i.e. 16 years and 6 months, has been kidnapped and subjected to sexual intercourse, this Court is not inclined to release the applicant on regular bail.

7. Accordingly, bail application filed under Section 439 of the Cr.P.C. is rejected.

8. Certified copy as per rules.

**Sd/-
(Sanjay K. Agrawal)
JUDGE**