

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6788 of 2017**

Ajit Nagesh, S/o. Jhaduram Nagesh, Aged About 22 Years, R/o. Village Nakha- Darlipara, Post Office & Police Station - Seenapali, District Nuvapada (Odisha)

---- Applicant

Versus

State Of Chhattisgarh, Through : The Station House Officer, Police Station -Deobhog, District -Gariyaband, Chhattisgarh.

---- Respondent

For Applicant : Mr. Shivendu Pandya, Advocate

For Respondent/State : Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**08/12/2017**

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.217/2016, registered at Police Station – Deobhog, District – Gariyaband (C.G.) for the offence punishable under Section 363, 366, 376 (2) (n) of the Indian Penal Code and Section 4/6 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case. As per X-ray report, the age of the prosecutrix is between 16 to 20 years. Further in the statement

under Section 164 of Cr.P.C., the prosecutrix has stated that she went along with the applicant on her own free will and she was not forced by the applicant in any manner. It is also stated that she submitted herself for sexual intercourse on her own will, for which applicant can not be held responsible. Hence, in this situation, the applicant deserves to be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that according to the entry in the school register, the date of birth of the prosecutrix is 07.03.2000, hence she was minor on the date of incident i.e. 14.09.2016, when she was abducted by the applicant. Hence, any consent of the prosecutrix is immaterial in this case. Therefore, it is prayed that the application be rejected.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. The facts of the case are that father of the prosecutrix reported in Police Station Deobhog on 14.09.2016 that applicant had enticed away her daughter. The prosecutrix was recovered from the custody of the applicant on 25.01.2017, thereafter, on the basis of the statement given, FIR has been lodged against the applicant and the case has been registered.
6. Considered the submissions and the contents of the case diary. Taking into consideration this fact that the applicant is in jail since 28.01.2017, trial against the applicant is likely to take some time for its conclusion and no purpose would be served, if the, applicant is kept in custody till the conclusion of the trial, this Court is of the opinion that present is a

fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram