

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3636 of 2018**

- Jagdish Banjare, S/o Badriprasad Banjare, Aged About 32 Years R/o- Dongakahrod, Police Station Pamgarh, District- Janjgir-Champa, Chhattisgarh.,

---- Applicant

Versus

- State Of Chhattisgarh Through- S.H.O. Police Station Pamgarh, District- Janjgir-Champa, Chhattisgarh.,

---- Respondent

For Applicant	:	Shri Sunil Otwani, Advocate.
For Respondents/State	:	Shri V.B.Singh, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****27.08.2018**

1. This is first bail application preferred under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr.P.C.) for grant of regular bail to the applicant Jagdish Banjare as he has been arrested on 17.04.2018 in connection with Crime No.218/2016 registered in Police Station Pamgarh, Dist. Janjgir-Champa (C.G.) for the offence punishable under Sections 363, 366 & 376 IPC and also under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) read with Section 34 IPC.

2. Case of the prosecution is that on 27.09.2016, the prosecutrix went to her school and when she did not return even by evening, a missing report was lodged by her mother, namely, Ramayan Bai. Based upon the said report, an investigation was made wherein it was found that the present applicant along with co-accused persons, namely, Sattu Kosle and Chaitram Koshley with a

common intention, offered the sweet and coconut water to the victim, as a result of which, she became unconscious and thereafter she was taken on a motorcycle to Bilaspur Railway Station. Further prosecution story is that the prosecutrix was thereafter taken to Habibganj (Bhopal) Railway Station by the co-accused Chaitram Koshley and also by one Vijendra Koshley, a juvenile, and confined her in a room for ten months and during the said period, the juvenile Vijendra Koshley has committed sexual intercourse with her. On the basis of said information, initially an offence was registered under Section 363 IPC but after the aforesaid investigation, the aforesaid offences have been registered against the applicant along with other co-accused persons.

3. Shri Sunil Otwani, learned counsel appearing for the applicant submits that the applicant has been falsely implicated in connection with the aforesaid crime. He submits further that though in the statement of the prosecutrix recorded under Section 164 Cr.P.C., the name of the applicant was mentioned but when her statement was recorded before the Court below, she denied the involvement of the applicant. He submits further that even the mother of the prosecutrix has also not supported the prosecution story while inviting the attention of this Court towards her statement. He submits further that when a supplementary statement of the prosecutrix was recorded before the Juvenile Court, she denied the involvement of the present applicant Jagdish Banjare and stated therein that instead of Jagdish Banjare, the name of someone else, namely, Mann Singh Jogi be read. Lastly, he submits that the applicant is in jail since 17.04.2018, i.e., more than 4 months, therefore, under such circumstances, he may be released on bail.

4. On the other hand, Shri V.B.Singh, learned counsel for the State while opposing the bail application submits that since the prosecutrix is a minor and as she has alleged very specifically in her statement recorded under Section

164 Cr.P.C. against the applicant Jagdish Banjare, therefore, under such circumstances, the applicant is not entitled to be released on bail.

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

6. Having considered the facts and circumstances of the case and that by considering the contradictory statements of the prosecutrix and also by considering the statement of her mother Ramayan Bai and by considering further his detention period, I am inclined to enlarge him on bail without commenting on the merits of the case at this stage.

7. The bail application is accordingly allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond of Rs.25,000/- (Rupees twenty five thousand only) with one surety in like sum to the satisfaction of the concerned trial Court for his appearance before it as and when directed. It is, however, made it clear that I have not entered into the merits of the case and the trial Court shall proceed with the matter without influencing any of the observations of mine while allowing this application.

Sd/-
(Sanjay Agrawal)
Judge