

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7619 of 2018**

Rajesh Nishad @ Undhir, S/o Govind Nishad, Aged About 24 Years, R/o Nawagon, Bazarpara, Police Station Somni, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police of Police Station Somni, District Rajnandgaon, Chhattisgarh.

---- Non-Applicant

For Applicant	:	Shri Abhishek Sharma, Advocate.
For Non-Applicant/State	:	Shri Adil Minhaj, P. L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****01.11.2018**

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail, as the applicant, Rajesh Nishad @ Undhir, has been arrested on 11.03.2018 in connection with Crime No. 197/2018, registered in Police Station Somni, District Rajnandgaon (C.G.) for the offence punishable under Section 363, 366 & 376 of the Indian Penal Code, 1860 (for short 'IPC') and under Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO').

2. The case of the prosecution, is that on 06.11.2017, a missing report was lodged by one Bhanuram Sahu alleging, inter alia, that his daughter is missing since 05.11.2017 at about 11:00 pm and during enquiry, his daughter was recovered from Mudipar Railway Station. Further prosecution story is that the prosecutrix was abducted by the applicant from the lawful possession of her parents and thereafter committed sexual intercourse with her on the pretext of marriage. Based upon the alleged incident, an offence as mentioned herein above has been registered while arresting the applicant on 11.03.2018.
3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in connection with the aforesaid crime. He submits further that all the material witnesses have already been examined in the matter and according to the statement of prosecutrix and her parents, it is evident that no offence as such was committed by the applicant. According to his further submission even the author of the document (ExP/18) has not supported the prosecution story. As such, prosecution has failed to prove that prosecutrix is minor at that particular time. He further submits that the applicant is in jail since 11.03.2018, therefore, he may be released on bail.
4. On the other hand, learned State counsel opposes the bail application by submitting, inter alia, that although the material witnesses have been examined but the propriety of the same could be determined by the trial Court and no inference, as contended by Shri Sharma, could be drawn at this stage.

According to him, the offence is serious in nature and prima facie, the prosecutrix is minor when the alleged incident has occurred, therefore, the application as framed deserves to be rejected.

5. I have heard the 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 further the statement of prosecutrix and her parents, without commenting on merits, I am inclined to enlarge the applicant on bail.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the concerned trial Court on each and every date as and when directed by the said Court.

Sd/-
(**Sanjay Agrawal**)
Judge