

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3105 of 2019**

Anup Soni S/o Ashok Soni Aged About 25 Years R/o Village- Dhudha, Post Mandala, Police Station Khairagarh, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Durg District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

For the Applicant : Smt. Indira Tripathi, Advocate.
For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.07.2019**

Heard.

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.154 of 2019, registered at Police Station – Durg, District – Durg, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 27.2.2019 and has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The prosecutrix in this case is a major girl of

above 18 years of age which is reflected from the ossification report which shows that her age is between 17 to 19 years. None of the prosecution witnesses have stated regarding date of birth of the prosecutrix and that the evidence of school entry register is not a conclusive proof of age. Hence, for these reasons, it is prayed that the applicant be enlarged on 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 school entry register the age of the prosecutrix on the date of incident was below 18 years and she was exploited sexually by the applicant on the basis of false promise to marry her. Hence, the applicant is not entitled for grant of regular bail.

4. Heard counsel for both the parties and perused the case diary.

5. According to the prosecution case, the prosecutrix is a minor girl who was abducted by this applicant and then ravished her after promising that he will marry her. According to the statement of the prosecutrix a fake marriage was also performed whereas, the applicant was already married and the second marriage is not permissible under law.

6. On the basis of the evidence present in the case-diary and also considering the evidence regarding the age of the prosecutrix, I feel inclined to grant bail to the applicant in this case.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge