

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 3642 of 2019**

- Vineet Minj, S/o Virendra Minj, Aged About 23 Years, Caste-Uron, R/o Village- Ghatmunda- Baigatoli, Police Station-Kunkuri, District-Jashpur, Chhattisgarh.

---- Petitioner

**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station-Kunkuri, District-Jashpur, Chhattisgarh.

---- Respondent

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|----------------|---|-----------------------------------|
| For Applicant  | : | Mr. Sanjeev Kumar Sahu, Advocate. |
| For Respondent | : | Mr. Neeraj Pradhan, Panel Lawyer. |
| For Objector   | : | Mr. Akhilesh Kumar, Advocate.     |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**  
**Order On Board**

**09/08/2019**

1. This is 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.33/2019 registered at Police Station-Kunkuri, District-Jashpur(C.G.) for the offence punishable under Sections 366, 376 of the Indian Penal Code & Sections 4, 6 the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. He is in jail since 13.03.2019. No case is made out against this applicant. The

prosecutrix had always been a consenting party. FIR has been lodged after sufficient delay on 11.3.2019 which shows that the case against the applicant is concocted.

Relying on the judgment of Supreme Court dated 19.2.2003 passed in Criminal Appeal No.336/1996 (Uday vs State of Karnataka), it has been argued that in case of sexual relations on the basis of promise to marriage, which continues for some time, the significance of promise is lost and the relation becomes consensual, hence, on this basis the Supreme Court had allowed the appeal. It is a similar case, therefore, it is prayed that he may be released on regular bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that the incident had started from the year 2014 when the prosecutrix was a minor girl and she had made a statement regarding her sexual exploitation by the applicant, therefore, any consent in this respect is immaterial. Hence, he is not entitled for grant of regular bail.
4. After adopting the arguments advanced by learned State Counsel, it is submitted by the learned counsel for the Objector that date of birth of prosecutrix was 20.11.1998 and in the year 2014 when the relationship of the prosecutrix with the applicant started, she was below the age of 16, therefore, any consent given by her is immaterial.

Relying on the judgment of Supreme Court in Anurag Soni vs State of Chhattisgarh delivered in Criminal Appeal No.629/2019 on 9.4.2019, it has been argued that mere promise to marry for obtaining consent without any intention to fulfill said promise amounts to obtaining consent by deceit and this is also one of such case. Therefore, it is prayed that application be rejected.

5. Heard both the parties and perused the case diary.
6. According to the prosecution case, the applicant and prosecutrix got acquainted with each other in the year 2014 and since then the applicant is exploiting her sexually on the promise that he will marry her in future. After passing of time, the applicant married elsewhere because of which this FIR has been lodged.
7. Particularly in this case there is clear evidence that at the time when the physical relation of the applicant and prosecutrix started, the prosecutrix was a minor, therefore, it is a case of no consent according to the law prevailing. Further the applicant has performed marriage with other girl which clearly shows that he never intended to marry the prosecutrix. In these circumstances, I do not feel inclined to allow the application of this applicant.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

**(Rajendra Chandra Singh Samant)**  
Judge