

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.Cr.C. No. 3777 of 2019**

- Rishi Kumar Rautiya S/o Vishisht Rautiya Aged About 19 Years R/o Katkona, Police Station Patna, District Koriya Chhattisgarh

***---- Applicant***

***Versus***

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Patna, District Koriya Chhattisgarh

***---- Non-applicant***

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For Applicant : Mr. Anil Gulati, Advocate.

For Non-applicant/State : Mr. C.B. Kesharwani, Panel Lawyer.

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

**Order on Board**

**23-09-2019**

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 17.01.2019 in connection with Crime No.10/2019, registered at Police Station– Patna, District- Koriya, Chhattisgarh for offence punishable under Sections 363, 366, 376 of I.P.C. and Sections 4 and 6 of POCSO Act.
2. It is submitted by learned counsel for the applicant that the applicant has not committed any offence. The prosecutrix has willingly accompanied the applicant to different places and also she was the willing party in the physical relation, therefore, it is prayed that he may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that prosecutrix was of age nearly 15 years and 10 months and therefore, her consent is immaterial. Therefore, prayed that application be rejected.
4. Heard learned counsel for the parties and perused the case diary.

5. According to the prosecution case, this applicant allured the minor prosecutrix and took her to different places and committed the offence of rape with her.
6. Considering that the age of prosecutrix was below 16 years on the date of incident, therefore, her consent is immaterial, hence, I don't find any reason to allow this application. Hence, the application is rejected.
7. Certified copy as per rules.

Monika

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge