

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4131 of 2019**

Babulal Mirche, S/o. Nammu Mirche, Aged About 20 Years, R/o. Village Tarekela, Chowki Bhanwarpur, Police Station Basna, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station Sarsiva, District Balodabazar Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Satya Prakash Verma, Advocate.
For Respondent/State	:	Shri Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12.07.2019

1. This is the First Bail Application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 15.03.2019 in connection with Crime No. 96/2019 registered at Police Station Sarsiwa, District Baloda Bazar Bhatapara, for the offence punishable under Section 363, 366/34, 376 of Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act, 2012.
2. As per the prosecution case, an FIR was lodged by Goverdhan Banjare, father of the prosecutrix, that on 13.03.2019, when he came back from his work, Nammu Mirche, Babulal Mirche and two other persons had come to his house to see her daughter. In the night, after taking dinner they went to sleep. In the morning, he found his minor daughter missing from the house. Subsequently, she was found in the house of Nammu Mirche which he reported to the Police that knowing fully well that she was a minor, the applicant alongwith other co-accused had enticed away the girl and took her away from his lawful custody. The allegation is that the present applicant had committed forcefully sexual intercourse during the stay.

3. Learned counsel for the applicant submits that as per the statement of the prosecutrix, she was shown to be 17 years and she herself went to the house of the applicant as the applicant alongwith family members before the incident have gone to she her for marriage and thereafter when the marriage could not be fixed because of the age, the applicant came back and thereafter prosecutrix herself went alongwith the applicant. He submits that the seizure as would be evidence was made at 4 p.m. whereas the medical examination was made at Baloda Bazar which is 230 km away.
4. Perused the statement of the victim, who is aged about 17 years, which shows that the victim had gone alongwith the applicant. Taking into such statement of the victim, considering the facts and background of this case and the fact that the charge sheet has been filed and the applicant is in jail since 15.03.2019, I am inclined to release the applicant on bail.
5. Accordingly, the application is allowed and the applicant is directed to be released on bail on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

Sd/-
(Goutam Bhaduri)
Judge