

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 9327 of 2018**

Birshottam S/o Kalyan Singh Aged About 18 Years R/o Village- Lokdaha, Police Station- Pasan, District- Korba, Chhattisgarh. Presently R/o At Village- Mangora, (Kotesar Para), Police Station- Khadgawa, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Khadgawa, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh.

---- Respondent

For the Applicant	:	Shri P.K. Tulsyan, Advocate on behalf of Shri Anil Gulati, Advocate.
For the Respondent/State	:	Shri Arun Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****22.01.2019**

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. 197 of 2017, registered at Police Station Khadgawa, District Korea, Chhattisgarh for the offence punishable under Sections 450, 363, 366 and 376(2) of the Indian Penal Code and Section 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant 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 age of the prosecutrix had been above 18 years on the date of incident according to the entry in the school register and the copy of which, has been filed alongwith this application. The cause of lodging FIR in this case is only that the relation of the applicant and the prosecutrix was disclosed on the date of incident, which is reflected from the statement given by the witnesses. After completion of investigation, the charge-sheet has been filed and the trial against the applicant is still continuing. The applicant is in jail since 21.11.2017 and the trial is likely to take sometime for its conclusion. Hence, 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 statement given by the prosecutrix under Section 164 of the Cr.P.C. and the contents of the FIR against the applicant, he is not entitled for grant of regular bail.

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

5. The case of prosecution against the applicant is that on the date of incident the applicant committed house trespass into the house of the minor prosecutrix aged about 17 years and was ravishing her, at that time, the brother of the prosecutrix came to the place and seeing them together he raised alarm. Subsequent to which, FIR has been lodged.

6. Taking into consideration the fact that the case is before the trial Court and the trial of the case is likely to take some time for its final disposal, the

application deserves to be allowed.

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