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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 9943 of 2018**

Himalay Banjare S/o Mansharam Banjare Aged About 19 Years R/o Village Bijradeah ,police Station Bhatapara (Gramin) District (Revenue And Civil Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Bhatapara Gramin ,district (Revenue And Civil) Balodabazar Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri Sanjeev Das, Advocate.
For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.01.2019**

Heard.

1. This is the second bail application of the applicant. The first bail application of the applicant was dismissed as withdrawn on 1.8.2018 in M.Cr.C. No. 4885 of 2018 with a direction to revive the same in case the trial against the applicant is not concluded within three months. The applicant has been arrested in connection with Crime No.37 of 2018, registered at Police Station – Bhatapara, District – Baloda Bazar, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 3.2.2018 and has been falsely implicated in this case. No case is made out against the applicant as the prosecutrix was a consenting party and her age on the date of incident was above 18 years. 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 the age of the prosecutrix on the date of incident was 16 years and her consent is immaterial. Hence, the applicant is not entitled for grant of bail.

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

5. It is alleged that this applicant allured the minor prosecutrix aged about 16 years with a false promise to marry her and then established physical relation with her on number of occasions.

6. After due consideration on all the material present in the case-diary, I am of the view that the present is a fit case for grant of regular bail to the applicant.

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