

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 893 of 2020

Basir Khan S/o Late Nizamuddin Khan Aged About 70 Years R/o Arjun Nagar
Near Ganesh Manch Camp - 1 Bhilai, Police Station- Chhawani, District- Durg,
Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station- Chhawani, District- Durg,
Chhattisgarh.

---- Respondent

For Applicant	: Mr. P.R. Patankar, Advocate
For Respondent/State	: Mr. Devendra Pratap Singh, Dy. A.G.
For Complainant	: Mr. Utsav Mahishwar, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

14/07/2020

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.682/2019, registered at Police Station – Chhawani, District – Durg (C.G.) for the offence punishable under Section 363, 376(C) of the Indian Penal Code and Section 3 & 4 of Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case, who is aged about 70 years. No case is made out against the applicant. The statement

given by the prosecutrix and other witnesses is clearly contradictory with the medical evidence. The applicant is in jail since 02.11.2019. Hence, it is prayed that the applicant may 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 in this case is only 12 years and 9 months and she has made categorical statement against this applicant. Therefore, the application be rejected.
4. Complainant Virendra Sahu is present in person before this virtual Court through Help Desk of this High Court. He has stated that he has no objection in grant of bail to the applicant.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. FIR has been lodged against this applicant alleging that he has abducted the minor prosecutrix and has forcefully raped her.
7. Considered on the submissions made by the both the sides and also the statement given by the complainant himself. MLC report of the prosecutrix mentions that her hymen was intact and the doctor was unable to form any opinion regarding any recent intercourse having taken place. The rejection order also mentions the statement of no objection made by the complainant side before the Sessions Court, therefore, under these circumstances, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on

regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram