

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1347 of 2020**

- Yashwant @ Ashwan Kosariya S/o Tarashankar Kosariya Aged About 18 Years
R/o Satnami Para, Ring Road, Fingeshwar, Police Station- Fingeshwar, District-
Gariyaband, Chhattisgarh

----Applicant**Versus**

- State Of Chhattisgarh Through Police Station Fingeshwar, District- Gariyaband,
Chhattisgarh

---- Respondent

For Applicant : Shri Mohammad Afroz Athar, Advocate

For Respondent/State : Shri Adil Minhaj, Dy. AG

Hon'ble Shri Justice Goutam Bhaduri**Order****13/05/2020**

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 10.09.2019 in connection with Crime No.172/19 registered at Police Station Fingeshwar, District Gariyaband (CG) for the offence punishable under Sections 363, 366, 376 (2) (a), 376 (3) of IPC and Sections 4 & 6 of the POCSO Act.
2. As per the prosecution case, the applicant enticed away the the minor prosecutrix from the lawful guardianship of the parents and thereafter committed forceful sexual intercourse. Thereby the offence has been committed.
3. Learned counsel for the applicant submits that the prosecutrix (PW-2) and the mother of the prosecutrix namely Memin (PW-3) have been examined in this

case and other 15 witnesses have already been examined and no one has supported the case of the prosecution and on the examination of the statement of the prosecutrix and her mother would show that the date of birth of the prosecutrix is only on the basis of the presumption, therefore, it has not been established and further no offence has been attributed, therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail and would submit that the 15 witnesses have already been examined and the prosecution is at the verge of completion.
5. I have perused the statements of the prosecutrix and the mother of the prosecutrix PW-2 & PW-3 further it appears that the other witnesses they have not supported the case of the prosecution. Considering the facts of this case as also the fact that the prosecutrix and the mother of the prosecutrix have already been examined, therefore, there is no chances of tampering of evidence and further taking into the over all background, I am inclined to release the applicant on bail.
6. Accordingly, the application is allowed and the applicant is directed to be released on bail on his 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