

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2344 of 2020

Manoj Kumar @ Monu Dhuliya, S/o Naresh Dhuliya, Aged About 19 Years, R/o Village- Rajadhar, Police Station- Chilpi, District- Kabirdham (C.G.)

--- Applicant

Versus

State of Chhattisgarh, Through- Station House Officer, Police Station- Chilpi, District- Kabirdham (C.G.)

--- Respondent

For Applicant	:	Mr. Dharmesh Shrivastava, Advocate.
For State/ Respondent	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05/08/2020

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. 19/2019, registered at Police Station- Chilpi, District- Kabirdham (C.G.) for the offence punishable under Section 363, 366, 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 13.9.2019 and has been falsely implicated in this case. The prosecutrix had willingly accompanied with the applicant and resided with him for few days until her parents came and took her away on 2.9.2019. After due deliberation, concocted

FIR has been lodged on 09.09.2019. Statement of the prosecutrix itself discloses that she accompanied willingly with the applicant. Further, there is no opinion given by the examining doctor regarding any recent sexual intercourse, therefore, no case is made out against the applicant. Hence, it is prayed that this applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application submitting that firstly, statement of the prosecutrix under Section 161 & 164 of the Cr.P.C. is very much categorical against the applicant and secondly, age of the prosecutrix was only 15 years and 10 months, therefore, any willingness or submission to physical relation on her part, has no substance. Hence, the application for grant of bail may be rejected.
4. Notice issued to the complainant has been returned served, but, there is no appearance and no representation.
5. Heard counsel for both the parties and perused the records.
6. As per case of the prosecution, it is alleged that the prosecutrix had been grazing cattle when the applicant offered that he will marry her and then after enticing, he abducted the minor prosecutrix and took her to difference places and kept her in his custody. During this stay, the applicant committed offence of rape with the prosecutrix on a number of occasions.
7. Considered on the submissions and also the facts present in this case. The delay in lodging the FIR needs to be explained, therefore, I am of the view that it would be proper to release the

applicant on regular bail during pendency of trial against him, hence, I feel inclined to grant bail to the applicant in this case.

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