

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5154 of 2020**

Umesh Dugga S/o Sukhram Dugga, Aged About 21 Years By Caste Gond,
R/o Village Surevahi, Thana Siksod, Tahsil Antagarh, District U.B. Kanker
Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Siksod, District U.B. Kanker
Chhattisgarh, District : Kanker, Chhattisgarh.

---- Respondent

For the Applicant : Shri Parag Kotecha, Advocate.
For the Respondent/State : Shri B.P. Banjare, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.12.2020**

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.8 of 2020, registered at Police Station – Siksod, District – U.B. Kanker, Chhattisgarh for the offence punishable under Sections 376(2)(n) and 376(3) 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 22.3.2020 and has been falsely implicated in this case. The FIR against the applicant is delayed by almost two years. The applicant has been falsely implicated, which is reflected from the statement of the

prosecutrix herself who had first named some other person as the father of the child in pregnancy. Further, the DNA examination conducted in the investigation is also in favour of this applicant which says that this applicant is not the biological father of the child born to the prosecutrix, therefore, there is no case against this applicant. Hence, it is prayed that the applicant be enlarged on bail during the pendency of trial.

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 there is a clear statement of the minor prosecutrix regarding the relationship that she had with this applicant and that amounts to commission of offence of rape, therefore, the applicant is not entitled for grant of bail.

4. Notice was issued to the complainant/ informant as the age of the prosecutrix was below 16 years. On the fixed date of 11.12.2020, nobody has appeared and there was no representation from the complainant's side.

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

6. The prosecution case is that this applicant allured the minor prosecutrix of age below 16 years with false promise to marry her and then had physical relation with her continuously because of which, she became pregnant and gave birth to a child, therefore, the FIR has been lodged.

7. Considered the submissions and the facts present in this case. As there is a delay of two years in lodging FIR and also that the DNA report is

negative although the statement of the prosecutrix in investigation is yet to be examined and appreciated by the trial Court, however, under these circumstances, 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. 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