

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.Cr.C. No.6395 of 2020**

- Roshan Nirmalkar S/o Shri Khublal Nirmalkar Aged About 22 Years R/o Chandrashekhar Nagar, Police Station Pandri, Raipur, District Raipur Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through The Station House Officer, Pandri, District Raipur Chhattisgarh

**---- Non-applicant**

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For Applicant : Mr. Tridib Bhattacharya, Advocate.

For Non-applicant/State : Mr. D.P. Singh, Dy.A.G.

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

**Order on Board**

**07-10-2020**

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 04.08.2019 in connection with Crime No.203/2019, registered at Police Station- Pandri, District- Raipur, C.G. for offence punishable under Sections 363, 366, 376 of I.P.C. and Sections 4 and 6 of POCSO Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix is not minor and the applicant intends to challenge the ground of minority of prosecutrix in the trial. The prosecutrix has herself given a different version of statement under Section 164 Cr.P.C. which supports the applicant's case. The applicant is in jail since 04.08.2019. Hence, it is prayed that he may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix has clearly alleged against the applicant regarding the commission of offence in her statement under

Section 161 of Cr.P.C., therefore, the application may be rejected.

4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, the applicant used to express his love for the minor prosecutrix. On asking of the applicant, the prosecutrix met with him on 01.05.2019 and then went to live with him in a rented house, where she resided with the applicant till 03.08.2019 during which the applicant exploited her sexually on numerous occasions. Prosecutrix was recovered on 04.08.2019 on the basis of missing report and then she has given statement against the applicant.
6. Considered on the submissions, it is found that the statement of the prosecutrix under Section 164 of Cr.P.C. appears to be contradictory, which needs further examination and which can be done only in the trial, therefore, for the present, I feel inclined to allow this application.
7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed, on condition as imposed by the concerned Court.
8. Certified copy as per rules.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge