

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C. No. 6480 of 2020**

Dikesh Nishad S/o Kartik Shyam Nishad Aged About 21 Years R/o Village Hatranka, Police Station Than Khamhariya, District Bemetara Chhattisgarh.

**---- Applicant****Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Kawardha, District Kabirdham Chhattisgarh.

**---- Respondent**


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|--------------------------|---|-------------------------------------------------|
| For the Applicant        | : | Shri Dharmesh Shrivastava, Advocate.            |
| For the Respondent/State | : | Smt. Fouzia Mirza, Additional Advocate General. |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****ORDER****15.10.2020**

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.335 of 2020, registered at Police Station – Kawardha, District – Kabirdham, Chhattisgarh for the offence punishable under Sections 363, 366 and 376(2)(n) 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 15.7.2020 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. The prosecutrix on her own came to reside with the applicant and she was willingly residing with him

for about 7 months before she left and then, a false FIR has been lodged. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. Hence, it is prayed that the applicant 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 at the time of incident was only 16 years and 7 months, therefore, any consent or willingness by her is of no consequence. Hence, no case is made out for grant of bail to the applicant.

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

5. According to the prosecution case, it is alleged that this applicant emotionally threatened the prosecutrix to submit to his wishes and then, the prosecutrix was taken by him from Kawardha to Raipur. The applicant then kept the prosecutrix in his custody for about 7 months and exploited her sexually until she left the place on her own. The prosecutrix met with her parents and narrated about the incident and thereafter, the FIR was lodged.

6. Considering the submissions made by counsel for the applicant and the facts and circumstances of the case, I feel inclined to grant bail to the applicant in this case.

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

8. 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