

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6630 of 2020**

Bhuneshwar Dhruv @ Golu Dhruv, S/o. Late Punitram Dhruv, aged about 20 years, R/o. Rakhi, Police Station Kurud, District Dhamtari, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through - Station House Officer, Police of Police Station Magarlod, District- Dhamtari, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Anil Gulati, Advocate
For Respondent/State	: Mr. Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****24/11/2020**

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.33/2020, registered at Police Station – Magarlod, District – Dhamtari (C.G.) for the offence punishable under Section 363, 366 and 376 of the Indian Penal Code and Section 4 & 6 of the Protection of Children from Sexual Offences Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant according to the material present in the case diary. The applicant is in jail since 02.06.2020. The prosecutrix is not a minor, she herself has stated in her statement under Section 164 of Cr.P.C. about her age to be 17 years. The applicant intends to

challenge her minority in the trial, otherwise, the relation between the applicant and the prosecutrix had been consensual according to the statement given by her under Section 164 of Cr.P.C., before the Magistrate, which shows that she herself left her parental house and insisted on living with the applicant and having physical relation with him. Hence, it is prayed that the applicant may be released 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 at the time of incident, the age of the prosecutrix was below 15 years, therefore, any consent or willingness on her part is of no consequence. Hence, the offence registered against the applicant is made out. Hence, it is prayed that the application be rejected.
4. Notice issued to the complainant has been returned served but there is no appearance and no representation.
5. I have heard the learned counsel for both the parties and perused the case diary.
6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix and then by keeping her in his custody, he has exploited her sexually on numerous occasions until she was recovered by the police.
7. Considered on the submissions and the facts present in the case. Considering the statement given by the prosecutrix under Section 164 of Cr.P.C., this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
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

Balram