

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6625 of 2020**

Bhavishya Kumar @ Bharat Nagarchi S/o Dilharan Nagarchi, Aged About 22 Years R/o Sukhrikhurd, Police Station Uрга, District Korba (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through - Station House Officer, Police Station City Kotwali, Dhamtari, District - Dhamtari (Chhattisgarh).

---- Respondent

For the Applicant : Shri Anil Gulati, Advocate.
For the Respondent/State : Shri Vimlesh Bajpai, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****13.10.2020**

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.107 of 2020, registered at Police Station – City Kotwali, Dhamtari, District – Dhamtari, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 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 10.8.2020 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. The applicant intends to challenge the ground of minority of the prosecutrix in the trial itself. The

prosecutrix had been a consenting party. It was at her guidance that the applicant and the prosecutrix both left their village and then they went to Ayodhya and after performing marriage, they reside together. 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 according to the investigation made the prosecutrix was minor at the time of incident, 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 abducted the minor prosecutrix and then by keeping her in his custody he has exploited her sexually which amounts to commission of offence of rape.

6. Considering the submissions made by counsel for the applicant and the facts of the case, particularly, looking to the statement given by the prosecutrix, 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

Nimmi