

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7332 of 2020**

Sunil Kumar Yadav, S/o. Godhram Yadav, aged about 24 years, R/o. Village - Buchihardi, P.S. - Baloda, District- Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through S.H.O. - Civil Line, Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Hemant Gupta, Advocate
For Respondent/State	: Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/12/2020**

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.73/2020, registered at Police Station – Civil Line, Raipur, District – Raipur (C.G.) for the offence punishable under Section 363, 376 (2) (n) of the Indian Penal Code and Section 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. The prosecutrix is not minor on the date of incident and the applicant intends to challenge the ground of minority of the prosecutrix in trial. The statement of the

prosecutrix given in the investigation clearly mentions that she was the person, who had asked the applicant to take her with him and then she willingly resided with him and the physical relation has also taken place on the basis of consent. Hence, no case is made out against the applicant. Therefore, it is prayed that the applicant may be released on regular 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 was 16 years and 11 months according to the proof of age collected in the investigation, therefore, any willingness or consent on her part is of no consequence. Statement of the witnesses present clearly shows that the applicant has committed the offences registered against him. Therefore, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, it is alleged that this applicant enticed the minor prosecutrix with false promise to marry her and then abducted her and took her to Raipur, where both of them resided in rented house. It is alleged that the applicant established physical relation with the minor prosecutrix, which amounts to commission of offence of rape.
6. Considered on the submissions and the facts of the case. Looking to the statement that prosecutrix has given 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.

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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram