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**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C. No. 6789 of 2020**

Bajrang alias Sunil Soren, S/o. Chaina Ram, aged about 20 years, Caste-Turi, R/o. Village Podikhurd, P.S. Darima, District Sarguja, Chhattisgarh.

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

State of Chhattisgarh, Through : The Station House Officer, Police Station Bagicha, District- Jashpur, Chhattisgarh.

**---- Respondent**

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| For Applicant        | : Mr. Vikash Pradhan, Advocate |
| For Respondent/State | : Mr. B.P. Banjare, Dy. G.A.   |
| For Complainant      | : Ms. Sarina Khan, Advocate    |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****Order On Board****20/11/2020**

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.27/2020, registered at Police Station – Bagicha, District – Jashpur (C.G.) for the offence punishable under Section 363, 366, 376 (द) of the Indian Penal Code and Section 4, 5-द, 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 prosecutrix was willing and consenting party through out. The applicant has not committed any offence. The date of birth of the prosecutrix according to the prosecution case is being disputed by the applicant. The prosecutrix has made statement in favour of the applicant in her statement under Section 164 of Cr.P.C., where she admitted that she herself went to the house of the applicant and residing with him for sometime. At present the development has taken place, in which the parents of the applicant and prosecutrix both have agreed to marry the applicant with the prosecutrix. 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 16 years, therefore, she was not in a position to give a valid consent. Any willingness or consent on her part is immaterial. Therefore, it is prayed that the application be rejected.
4. Prosecutrix is present before this Court along with counsel Ms. Sarina Khan. She makes statement that she has no objection in grant of bail to the applicant and also confirms the submission made by the applicant's counsel.
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 made physical relation with the prosecutrix in the year 2016, when she was 13 years of age. Then on 09.03.2020, the applicant abducted the

minor prosecutrix and kept her in his custody for sexual exploitation, when she was recovered by the police, regarding which offence has been registered.

7. Considered on the submissions. The prosecutrix has omitted to make statement about the incident of 2016 in her statement under Section 164 of Cr.P.C.. Further she is present before this Court to support the applicant, hence, under these circumstances, 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