

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6998 of 2020**

Somnath Nagesh, S/o. Benuram Nagesh, aged about 23 years, R/o. Village Sitlee Jor, Police Station Devbhog, District Gariyaband (Chhattisgarh). (Cause title of the applicant- as per notice of arrest Dated 25/07/2020 which has been given by the Police Authority to the relative of the applicant due to non-mentioning the details of the cause title in the impugned/rejection Order).

---- Applicant**Versus**

State of Chhattisgarh, through : the Station House Officer, Police Station Amlipadar, District Gariyaband Chhattisgarh.

---- Respondent

For Applicant	: Mr. Shivendu Pandya, Advocate
For Respondent/State	: Mr. Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****04/11/2020**

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 – Amlipadar, District – Gariyaband (C.G.) for the offence punishable under Section 363, 366, 376 (2) (n) 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 prosecutrix had been a consenting party, which is reflected from her statement given under Section 161 and 164 of Cr.P.C.. The prosecutrix was not minor on the date of incident. The applicant is in jail since 25.07.2020. 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 according to the proof of age collected in the investigation, prosecutrix was clearly a minor at the time of incident, therefore, any consent or willingness on her part is immaterial. Therefore, it is prayed that the application be rejected.
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. The prosecutrix was confined in some place, where the applicant established physical relation with the minor prosecutrix, which amounts to commission of offence of rape.
6. After Considering on the submissions and the facts present in the case and particularly the statement that has been given by the prosecutrix in the investigation, 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