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**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C. No. 7377 of 2020**

Avilash Tandan, S/o. Shobha Ram Tandan, aged about 19 years, R/o. Village Sankara, Police Station Berla, District Bemetara (Chhattisgarh).

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

State of Chhattisgarh, Through : The Station House Officer, Police Station Dharsiva, District Raipur (Chhattisgarh).

**---- Respondent**


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| For Applicant        | : Mr. T.K. Jha, Advocate          |
| For Respondent/State | : Mr. Adil Minhaj, Govt. Advocate |

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**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.63/2020, registered at Police Station – Dharsiva, District – Raipur (C.G.) for the offence punishable under Section 363, 366, 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. The prosecutrix is not minor. The age of the prosecutrix has been calculated on the basis of school entry record, which is not a conclusive proof. The applicant intends to challenge the ground of minority of the prosecutrix. The prosecutrix has given statement in the investigation, which shows her willingness and consent for her residing with the applicant and having physical relation with him. Therefore, no case is made out against the

applicant. Hence, 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 only 16 years and four months on the date and time of incident. Further the statement about physical relation with the applicant clearly establishes the commission of crime by the applicant. 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 abducted the minor prosecutrix and then performed sham marriage with her. Subsequent to which, he also 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. Charge-sheet has been filed and it is about 10 months, the applicant is in jail. Further, considering on the submission made from the applicant side, and other circumstances present, 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