

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 8051 of 2020**

Pawan Netam (wrongly mentioned as Nemat in the order sheet), S/o. Late Jilakhan Netam, aged about 26 years, R/o. - Village - Charwahi, Police Station and District - Balod, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through - S.H.O. - Balod, District - Balod, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Hemant Gupta, Advocate
For Respondent/State	: Mr. Gurudev I. Sharan, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****08/12/2020**

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.109/2019, registered at Police Station – Balod, District – Balod (C.G.) for the offence punishable under Section 363, 323, 342, 376, 506 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. Totally false FIR has been lodged by the prosecutrix and she has also made false statement in the investigation. The medical examination report of the prosecutrix

clearly shows that no injuries were found on her body as well as on her private parts and her hymen was also found intact, therefore, the allegation of rape is itself falsified. The FSL examination of the articles is also negative and no human spermatozoa was found on the slides and clothes that was seized in the investigation. The applicant is in jail since 18.03.2019. The prayer for bail is also made on this ground that the applicant is suffering from a medical condition, in which, the hemoglobin count in his blood has gone down because of which, he was required to be admitted in the hospital and treated for sometime in the month of August and this condition is continuing one. 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 prosecutrix has made clear allegation in her statement against the applicant regarding her abduction, confinement and rape by this applicant. Therefore, no case is made out for grant of bail to the applicant.
4. Notice was issued to the complainant/informant for fixed date 01.12.2020. The complainant had appeared on that date and he has objected in grant of bail to the applicant.
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 on 14.03.2019, this applicant abducted the minor prosecutrix of age about 14 years and 6 months and then kept her in confinement in his own house and also raped her. FIR was lodged on 15.03.2019.

7. Considered on the submissions and the facts of the case. The statement made by the prosecutrix, medical examination report and FSL report speak differently which needs to be appreciated in trial. Apart from that there are other circumstances present including the medical condition of the applicant and his long detention, hence for this reason, 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