

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7830 of 2019**

- Suresh Nishad S/o Ishwar Nishad, aged about 32 years, R/o Gohannala, Police Station Dugli, District Dhamtari (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh Through : The Station House Officer, Police of Police Station Borai, District Dhamtari (C.G.)

---- Respondent

For Applicant	:	Shri Abhishek Sharma, Advocate
For Respondent	:	Shri V.K. Agrawal, P.L.

Hon'ble Smt Justice Rajani Dubey**Order on Board****21/01/2020**

1. The applicant has preferred this first bail application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is arrested in connection with Crime No.03/2019, registered at Police Station – Borai, District Dhamtari (C.G.) for the offence punishable under Sections 363, 366, 376 IPC and Sections 4 & 6 of POCSO Act, 2012.
2. The prosecution case, in brief, is that on 27.03.2019, a missing report was lodged by Yashwant Nirmalkar alleging therein that his daughter is missing from 16.03.2019. He searched his daughter at own level but of no avail. During investigation, the prosecutrix recovered from the possession of the applicant and her statement was recorded wherein she has stated that the applicant, on the pretext of marriage, committed sexual intercourse with her many times. Based on this, offence has been registered. The present applicant has been taken into custody on 31.08.2019.
3. Learned counsel for the applicant submits that the applicant

is innocent and has been falsely implicated in the case. He further submits that the applicant has not abducted the prosecutrix rather she herself accompanied the applicant. He also submits that the prosecutrix, on the date of incident, was major and she is a consenting party to the act of the applicant. He also submits that the applicant is in custody since 31.08.2019, charge sheet has been filed and there is no likelihood of his case being decided in near future. Therefore, he may be released on bail.

4. On the other hand, learned counsel for the State opposed the bail application. Learned State counsel submits that the age of the prosecutrix is 17 years and 6 months.
5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the totality of the facts and circumstances of the case, quality of evidence and further considering the fact that the applicant is in custody since 31.08.2019, charge sheet has been filed and the trial is likely to take some time, without further commenting on merits of the case, I am inclined to release the applicant on bail.
7. Accordingly, the bail application is allowed.
8. It is directed that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one solvent surety for the like amount to the satisfaction of the trial Court for his appearance before the said Court as and when directed.

Certified copy, as per rules.

Sd/-
(Rajani Dubey)
Judge