

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1175 of 2021**

Omkar Patel S/o Pitambar Patel Aged About 21 Years R/o Village-
Amlipadar, Police Station- Amlipadar, District- Gariyaband, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station- Amlipadar, District-
Gariyaband, Chhattisgarh.

---- Respondent

For the Applicant : Mohammad Afroz Athar, Advocate.
For the Respondent/State : Shri Akhtar Hussain, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.03.2021**

Heard.

1. This is the second bail application of the applicant. The first bail application of the applicant was dismissed for non-prosecution on 20.11.2020 in M.Cr.C. No. 6860 of 2020. The applicant has been arrested in connection with Crime No.24 of 2019, registered at Police Station – Amlipadar, District – Gariyaband, Chhattisgarh for the offence punishable under Sections 363, 366 and 376(2)(dha) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 8.5.2019 and has been falsely implicated in this case. The prosecutrix in this case has committed suicide sometime before. She has not been examined in the trial and there is no possibility of her examination.

Therefore, without her statement the prosecution case against this applicant cannot result in any conviction. Hence, looking to the delay in the trial, it is prayed that the applicant be enlarged 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 the statement given by the prosecutrix under Sections 161 and 164 of the Cr.P.C. have clear allegations against this applicant. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Pustam Yadav is present before this Court on notice. He made a statement that he has objection in grant of bail to the applicant. He has also informed that the prosecutrix, who was her daughter has committed suicide about 5-6 months before.

5. Heard counsel for both the parties and perused the case diary.

6. The prosecution case is that this applicant abducted the minor prosecutrix of age below 16 years, kept her in his custody and also exploited her sexually knowing well that she is not competent to such consent.

7. Considered the submissions and the documents present in this case. Looking to the present circumstances, that the prosecutrix in this case has expired, there is no possibility of her statement to be recorded in the trial and also the applicant is in jail since about 1 year and 10 months and the trial against him has not made any progress, therefore, I feel inclined to grant

regular bail to the applicant.

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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge