

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 3053 of 2020**

Ashish Bansal a.k.a. Golu, S/o Govindram, Aged About 32 Years, R/o Budhwari Bazaar, Ward No. 4, Sakti, Police Station- Sakti, District - Janjgir-Champa (C.G.)

**--- Applicant**

**Versus**

State of Chhattisgarh, Through Station House Officer, Police Station – Sakti, District- Janjgir-Champa (C.G.)

**--- Respondent**

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For Applicant : Ms. K. Tripti Rao, Advocate.

For State/ Respondent : Mr. Devendra Pratap Singh, Dy. A.G.

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

**Order on Board**

**22/01/2021**

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. 21/2020, registered at Police Station- Sakti, District- Janjgir-Champa (C.G.) for the offence punishable under Section 376(2) (C) of IPC, Section 4, 6 of Protection of Children from Sexual Offences Act, 2012 and Section (5-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Learned counsel for the applicant submits that the applicant is in jail since 19.01.2020 and has been falsely implicated in this

case. The prosecutrix was not minor on the date of incident. The relationship of the applicant and the prosecutrix was consensual, which continued for sometime and the prosecutrix never objected and never complained. The FIR is delayed by about six months. The charge-sheet has been filed after completion of investigation. The prosecutrix is habitual in lodging FIR alleging rape, as she had earlier lodged similar FIR against two children in conflict with law, which has been registered as Crime No. 03/2017 in police station- Janjgir- Champa. No case is made out against the applicant, hence, it is prayed that this applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application submitting that statement of the prosecutrix under Section 161 & 164 of the Cr.P.C. made clear allegation against the applicant regarding commission of offence of rape and further, the prosecutrix was minor on the date of incident, therefore, her consent is immaterial. No case is made out for grant of bail to the applicant. Hence, the application for grant of bail may be rejected.
4. Notice was issued to the informant/ complainant in compliance of Section 15(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which has been returned served for 03.09.2020, but there was no appearance and no representation on that date.
5. Heard counsel for both the parties and perused the records.

6. As per case of the prosecution, it is alleged that the minor prosecutrix was working as house maid in the house of the applicant. On the date of incident, the applicant finding her alone, committed the offence of rape with her. This incident was repeated for about 3-4 times. After passing of few months, pregnancy of the prosecutrix became visible, regarding which, enquiry was made by parents of the prosecutrix and then, the FIR has been lodged in this case.
7. Considered on the submissions and the facts present in this case. The applicant is in jail for about one year and the trial has not commenced. Apart from that taking into consideration the other circumstances present, I am of this view that it would be proper to release the applicant on regular bail, hence, I feel inclined to grant bail to the applicant in this case.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
9. It is directed that the 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**