

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3321 of 2021**

Pankaj Kashyap S/o Shankar Lal Kashyap Aged About 40 Years R/o 180,
Moti Para, Ward- 30 Durg, P.S. Kotwali Durg, District Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station- Kotwali Durg, District : Durg,
Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Kishore Narayan, Advocate.
For the Respondent/State	:	Shri Amit Kumar Verma, P.L.
For the Complainant	:	Shri H.A.P.S. Bhatia, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****22.07.2021**

Heard.

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.127 of 2021, registered at Police Station – Kotwali Durg, District – Durg, Chhattisgarh for the offence punishable under Sections 376, 376(2)(dha) and 506 of the Indian Penal Code and Sections 5(th), 4 and 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 12.2.2021 and has been falsely implicated in this case. The age of the prosecutrix had been 18 years 10 months when the FIR was lodged. The details of the incident itself shows that the incident started from 27.9.2018

and continued up till 1.2.2021 subsequent to which, FIR has been lodged, therefore, the length of this incident shows that the relationship was consensual. The applicant has filed the documents alongwith covering memo and letters showing consent, the FIR is delayed by 3 years and the incident is based on consent, therefore, the applicant is entitled for grant of 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 applicant was neighbour of the minor prosecutrix and he has taken benefit of the trust of the prosecutrix who used to call her uncle and then exploited her sexually without her consent from the time she was of age 16 years and 4 months, therefore, no case is made out for grant of regular bail to the applicant.

4. Learned counsel for the Objector adopts the arguments submitted by the State counsel and submits that the applicant had continuously harassed the minor prosecutrix and subjected her to physical relation by putting her under threat on numerous occasions until she disclosed about the incident to her parents and further, if he released on bail, there are chances he may harass the prosecutrix. Hence, for these reasons, the applicant is not entitled for grant of bail.

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

6. According to the prosecution case, on 27.9.2018, this applicant took the custody of the minor prosecutrix from her school and took her to a lonely place where he forcefully raped her and subsequently, he exploited her sexually on numerous occasions by putting her under threat until she lodged the FIR.

7. Considered the submissions and the facts present in this case. It is a case where there had been a relation of trust of the applicant and the prosecutrix which has been clearly breached by the applicant. Specifically in such matters in which the minor victims are exploited by the persons close in relation or close in other forms are not reported on time and often go unreported, therefore, I am of this view that it is not a fit case to grant regular bail to the applicant.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge