

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 6268 of 2020**

Pawan Kumar Sarthi, S/o Mahesh Kumar Sarthi, Aged About 21 Years,  
R/o Village Bartunga, Police Station- Chirmiri, District- Koriya (C.G.)

**--- Applicant**

**Versus**

State of Chhattisgarh, Through Police Station, Ambikapur, District-  
Surguja (C.G.)

**--- Respondent**

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For Applicant : Mr. Anurag Singh, Advocate.

For State/ Respondent : Mr. B.P. Banjare, Dy. Govt. Advocate.

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

**Order on Board**

**21/01/2021**

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. 737/2019, registered at Police Station- Ambikapur, District- Surguja (C.G.) for the offence punishable under Section 363, 366, 376(2)(ढ), 376(3) of IPC and Section 5 (ढ)/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 27.12.2019 and has been falsely implicated in this case. The prosecutrix has been examined in the trial and she has not supported the prosecution case, therefore, no case is

left against this 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 the prosecutrix of age below 16 years, was abducted and raped by the applicant, regarding which, there is evidence present against this applicant. Hence, the application for grant of bail may be rejected.
4. Notice was issued to the informant/ complainant in compliance of Section 439(1A) of the Cr.P.C., which has been returned served, but there is no appearance and no representation.
5. Heard counsel for both the parties and perused the records.
6. As per case of the prosecution, it is alleged that the applicant abducted the minor prosecutrix of aged below 16 years and then, by keeping her in his custody, he has exploited her sexually on number of occasions.
7. Considered on the submissions and the facts present in this case. Perused the certified copy of deposition of the prosecutrix filed along with this application and it is found that she has not at all supported the prosecution case and she has been declared hostile by the prosecutor for not supporting the prosecution case. Looking to this development, I feel inclined to allow the bail application of this applicant.
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**

Arun