

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6638 of 2021**

- Rajkumar Nayak, S/o Shri Kitab Singh, aged about 21 Years, R/o Village Bokramuda Police Station and Tahsil Pendra, District-Gourela- Pendra- Marwahi, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Pendra, District- Gourela-Pendra-Marwahi, Chhattisgarh.

----Non-applicant

For Applicant	Shri Yogendra Chaturvedi, Advocate.
For State	Shri Alok Nigam, Government Advocate.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

04/10/2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he has been arrested in connection with Crime No.409/2018 registered at Police Station- Pendra, District Gourela-Pendra-Marwahi, C.G. for the offence punishable under Sections 363, 366, 376(3), 376(2-n) of Indian Penal Code and Sections 5-(j)(II), 5-(I) and Section 6 (wrongly mentioned as Section 5(I)/6 in impugned order) of POCSO Act, 2012.
2. Case of the prosecution is that on 11.11.2018 the prosecutrix was found missing from her house. She was searched by her family members and when she could not be located, report was lodged to the concerned police station. Based on the report, crime for offence under Section 363 was registered against the

unknown person. During the course of investigation, prosecutrix was recovered from the possession of the applicant from his house on 02.07.2021.

3. Shri Chaturvedi, learned counsel for the applicant would submit the applicant has not committed any offence as alleged against him. Prosecutrix and her parents were examined before the trial Court and have not supported the case of the prosecution and further they have stated that the age of prosecutrix to be of 21 years but they have wrongly recorded date of birth of prosecutrix in school reducing her age. He further submits that due to the relationship of the prosecutrix with the applicant, the prosecutrix is having a baby, aged about 7 months and she is residing in her in-laws' house.
4. Shri Nigam, learned counsel for the State opposing the submissions made by learned counsel for the applicant would submit that as per case diary, on the date of incident, the prosecutrix was less than 16 years of age, hence, the applicant is not entitled for grant of bail.
5. Prosecutrix is present in person before this Court and submits that she is having no objection to release of the applicant on bail.
6. I have learned counsel for respective parties.
7. Taking into consideration the facts and circumstances of the case, the nature of allegations and the submissions made by learned counsel for the applicant and the prosecutrix, without commenting anything on merits of the case, I am inclined to allow the bail application.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that-

- (a) He shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
- (ii) The applicant shall not, in any manner, tamper with the prosecution witnesses.
- (iii) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of bail.

Sd/-
(Parth Prateem Sahu)
Judge

Akhilesh