

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6545 of 2021**

- Krishna Kumar Sahu S/o Ishwar Prasad Sahu Aged About 21 Years R/o Village Navapara (Katgi), Police Station Ghirdhoury, District Balodabazar Bhatapara Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Kosir, District Raigarh Chhattisgarh

---- Respondent

For Applicant	:	Shri G.R. Miri, Sr. Adv. With Shri Basant Kaiwartya, Advocate
For Respondents/State	:	Shri Animesh Tiwari, Dy. AG

Hon'ble Shri Justice Goutam Bhaduri**Order****08/12/2021**

1. Heard.
2. This is the First Bail Application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 17.10.2020 in connection with Crime No.15/2020 registered at Police Station Kosir, District Raigarh (CG) for the offence punishable under Sections 363, 366, 376 (2 N) of Indian Penal Code, Section 4, 6 of Protection of Children from Sexual Offences Act and Section 3 (2) (v) of SC/ST (Prevention of Atrocities) Act.
3. As per the prosecution case, on 09.02.2020 the victim went along with the

applicant to visit Shivrinarayan Mela thereafter in the evening she was subjected to forceful sexual intercourse which was reported subsequently.

4. Learned counsel for the applicant submits that the prosecutrix is not minor as on date and the date of birth which has been shown only on the basis of the mark-sheet is not admissible as per the law laid down by the Supreme Court in **AIR 1988 Supreme Court 1796** and **2010 (1) SCC 742**. He would further submit that the statement would show that she was consenting party being major, therefore, the applicant may be released on bail.
5. Per contra, learned State counsel opposes the prayer for grant of bail.
6. At this stage, I am not inclined to go into the merits of the case to draw inference of the age of the prosecutrix. The documents submitted are required to be adjudicated subject to just exception before the trial Court. Therefore, considering the nature of allegation, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu