

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7100 of 2021**

Nandkanhaiya, son of Rajkumar Yadav, aged about 21 years, resident of Village-Baghul, Police Station – Nawagarh, District Bemetara (C.G.) (In jail)

---- Applicant**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station – Dadhi, District – Bemetara (C.G.)

----Non-applicant

For Applicant	:	Mr. Bharat Rajpur, Advocate.
For Non-applicant	:	Mr. Vaibhav Singh, Panel Lawyer.

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****01.11.2021**

(1) The applicant/accused has preferred this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail in connection with Crime No. 90/2021 registered at police Station Dadhi, District-Bemetara (C.G.) for commission of offence punishable under Sections 363, 366(A) & 376(2)(n) of Indian Penal Code and Sections 4 & 6 of The Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").

(2) Case of the prosecution, in brief, is that applicant abducted the minor prosecutrix and kept her with him for about 11 days in Pune and there repeatedly sexually abused her and thereby committed the aforesaid offences. On report lodged by father of the victim/prosecutrix, FIR under Section 363 of IPC was registered. After

recovery of victim/prosecutrix and due investigation of the matter, charge-sheet under Sections 363, 366(A) & 376(2)(n) of Indian Penal Code and Sections 4 & 6 of the POCSO Act was filed against the applicant.

(3) Counsel for the applicant would submit that applicant has been falsely implicated in the crime in question as he has not committed alleged crime. He would further submit that as per statement of victim/prosecutrix recorded by the police and even in the statement recorded under Section 164 of the CrPC, she herself stated that she has left the house of her maternal grandfather on her own will and had gone to Pune. He would next submit that victim/prosecutrix and her father & mother have been examined before the trial Court but they have not supported the case of the prosecution in their deposition recorded before the trial Court and they have been declared hostile. According to him, the applicant is languishing in jail since 02.08.2021 and conclusion of trial is likely to take long time, therefore, the applicant is entitled to be released on bail.

(4) On the other hand, learned counsel for the State while opposing the submission made by counsel for the applicant would submit that although the victim/prosecutrix and her parents have not supported the prosecution case in their deposition recorded before the trial Court but looking to the seriousness of the crime and the fact that the trial is going on, the applicant is not entitled to be released on bail.

(5) Notice issued to victim / prosecutrix has been served upon Santosh Nishad, who is said to be father of the victim/prosecutrix, but neither he appeared before the Court nor represented by any counsel.

(6) I have heard learned counsel appearing for the parties and perused the case

diary as well as material available on record including statements of the prosecutrix & her parents recorded before the court below.

(7) Considering the facts & circumstances of the case, particularly, detention period of the applicant and hostility of the victim/prosecutrix and her parents in their deposition recorded before the trial Court, I am of the view that it is a fit case to release the applicant on bail. Accordingly, the bail application is allowed.

(8) Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 50,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy, as per rules.

Sd/-

(N.K. Chandravanshi)
Judge

D/-

