

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 7526 of 2021**

Dileshwar Sahu @ Golu S/o Shri Jaykumar Sahu Aged About 22 Years  
R/o Village- Kanapod (Barpara) P.S. - Charama, District- North Bastar  
Kanker, CG

---- Applicant

**Versus**

State of Chhattisgarh through- Station House Officer, Police Station  
Charama, District- North Bastar Kanker CG

---- Non-applicant

---

|                         |                      |
|-------------------------|----------------------|
| For applicant           | Mr. Sunil Sahu, Adv. |
| For non-applicant/State | Mr. Sudhir Sahu, PL. |

---

**Hon'ble Shri Justice N.K. Chandravanshi****Order on Board****9-11-2021**

1. As per applicant, this is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no bail application is pending before any other court.

2. The applicant has been arrested in connection with Crime No. 114/2021 registered in police station Charama, Distt. North Bastar Kanker, (CG) for offence punishable under Section 376(2)(n) of Indian Penal Code and Section 4 and 6 of the Protection of Children from Sexual Offences Act.

3. Brief facts of the case are that in the month of December, 2020, the victim/prosecutrix went to see Rajarav Pathar Mela where she met the applicant. She gave her mobile number to him. Thereafter, they used to talk with each other and developed intimacy. On being called by the applicant on 27-1-2021, she went to jungle of village Jaisakarra, where on the pretext of marriage they made physical relation. Thereafter also, many times, they made physical relation. When victim prosecutrix got pregnant, then she told about it to her mother and father. Then his father lodged FIR for the offence under Section 376(2)(n) of the IPC and Section 4 and 6 of the Protection of Children from Sexual Offences Act at PS Charama. After investigation, charge sheet for the aforesaid offences has been filed against the applicant.

4. Counsel for the applicant submits that the victim/prosecutrix and applicant are resident of neighboring villages. They had love affair with each other. Victim/prosecutrix had gone to the applicant on her own freewill. He further submits that it is a matter of consensual physical relation. At the time of incident, victim/prosecutrix was not minor and as

per documents filed with the charge sheet, her age is highly disputed fact. Although, as per documents of the prosecution, at the time of incident she was minor, but this fact will be strongly contested by the applicant during trial. He next submits that charge sheet has been filed. The applicant is in jail since 13-8-2021. As per impugned order, father of victim/prosecutrix has not objected to the bail application of the applicant before the Special Judge (POCSO), Uttar Bastar Kanker and despite service of notice, they have not appeared before this Court. Hence, he prays that the applicant may be granted bail.

5. On the other hand, the State Counsel opposes the bail application submitting that at the time of incident, victim prosecutrix was minor, therefore, her consent has no legal value in the eye of law and the applicant has made physical relation with her on the pretext of marriage, due to which, she got pregnant also, therefore, the applicant is not entitled to be enlarged on bail.

6. Despite service of notice, neither victim/prosecution appeared before this Court nor any representation is made on her behalf.

7. I have heard counsel for both the parties and perused the case diary and the material available on record.

8. Considering the facts and circumstances of the case, the documents filed by the prosecution with regard to age of the victim/prosecutrix, intimacy between applicant and the prosecutrix, absence of criminal force in making physical relation, also taking into consideration that charge sheet has already been filed and also the detention period of the applicant, without commenting on the merit of the case, I feel inclined to allow the bail application. Therefore, the application is allowed. It is ordered that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned for his appearance before the concerned Court as and when directed by the said Court, he be released on bail.

9. CC as per rules.

**Sd/-**  
**(N.K. Chandravanshi)**  
**Judge**