

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8001 of 2020**

Chaitu Nagesiya S/o Late Bahadur Nagesiya Aged About 40 Years R/o
Kuberpur, P.S. Darima, District Surguja Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
Lundra, District Surguja Chhattisgarh.

---- Respondent

For the Applicant : Shri Jitendra Shrivastava, Advocate.
For the Respondent/State : Shri B.P. Banjare, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.01.2021**

Heard.

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.91 of 2020, registered at Police Station – Lundra, District – Surguja, Chhattisgarh for the offence punishable under Sections 363 and 376(2)(dha) of the Indian Penal Code and Sections 5(th), 6 and 17 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. Although there is allegation against the applicant regarding assisting and abetting in the commission of crime against the minor prosecutrix by the main accused present but the statement of the

prosecutrix under Sections 161 and 164 of the Cr.P.C. does not mention the name of this applicant. Hence, it is prayed that the applicant be enlarged on bail during the pendency of trial.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the main accused abducted the minor prosecutrix of age below 16 years and after that it was this applicant who gave shelter to the main accused and the prosecutrix in his house where the offence was committed with the connivance of this applicant, hence, he has made a participation in the commission of crime, therefore, the applicant is not entitled for grant of bail

4. Notices were issued to the complainant/ informant and the service report has not been received. As it appears that there is no allegation against this applicant regarding the commission of offence of rape, there is no obligation on this Court to hear the complainant in accordance with the provision under Section 439 (1A) of the Cr.P.C.

5. Heard counsel for both the parties and perused the case diary.

6. The case of the prosecution is that the prosecutrix aged about 13 years and 10 months was abducted by co-accused – Sukhan Nagsia, who happens to be son of this applicant and thereafter, the prosecutrix was kept in his custody in the house of this applicant for sometime during which, the minor prosecutrix was sexually exploited by the co-accused person.

7. Considered the submissions and the facts of the case. As it appears that in the statement given by the prosecutrix and in the investigation the name of this applicant is not reflected, therefore, I feel inclined to grant bail to the applicant in this case.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge