

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8302 of 2020**

Sohan Yadav S/o Laxman Yadav Aged About 20 Years Resident Of Tandwa,
Police Station Tilda Nevra, District : Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer Police Station
Dharsinwa, District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Pradeep Singh Rathore, Advocate.
For the Respondent/State : Shri Kunal Das, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****12.01.2021**

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.442 of 2020, registered at Police Station – Dharsinwa, District – Raipur, Chhattisgarh for the offence punishable under Section 376(2)(n) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 16.10.2020 and has been falsely implicated in this case. The prosecutrix is not minor. The reliance of the prosecution on the proof of her age is disputed as the prosecutrix herself says in her statement under Section 164 of the Cr.P.C. that she was of age 17 years whereas, she has

stated on an affidavit that her age is 18 years 10 months at present. The statement of the prosecutrix under Sections 161 and 164 of the Cr.P.C. clearly mentions that there had been a relation of the applicant with the prosecutrix based on consent and willingness. Hence, no case is made out against the applicant.

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 prosecutrix was minor on the date of incident, therefore, her consent or willingness is immaterial and further, her statement under Sections 161 and 164 of the Cr.P.C. discloses about the commission of offence by the applicant. Hence, no case is made out for grant of bail to the applicant.

4. The prosecutrix/ complainant is present before this Court on notice and she stated that she has no objection in grant of bail to the applicant and on the contrary, she has also prayed that the applicant be enlarged on bail.

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

6. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix on pretext of marrying her and then by keeping her in custody he has exploited her sexually until she became pregnant.

7. Considered the submissions and the facts of the case. It appears that there are different claims regarding the age of the prosecutrix and also that

the prosecutrix has no objection and further, looking to the other circumstances that are present, I feel inclined to grant regular bail to the applicant.

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