

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8306 of 2020**

Rupesh Yadav S/o Late Gokul Yadav Aged About 18 Years R/o Ward No. 35, Ganjpara Bandha Talab Durg, District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The District Magistrate, District : Durg, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Avinash Chand Sahu, Advocate.
For the Respondent/State	:	Smt. Smita Jha, P.L.
For the Objector	:	Shri Shikhar Sharma, Advocate.

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.603 of 2020, registered at Police Station – City Kotwali, District – Durg, Chhattisgarh for the offence punishable under Section 363, 366, 376(2)(n) and 376(3) of the Indian Penal Code and Sections 4, 5(dha) and 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 15.9.2020 and has been falsely implicated in this case. The prosecutrix was not minor on the date of incident. The statement that has been given by the prosecutrix under Section 164 of the Cr.P.C. shows about

the consensual relation and marriage of the applicant with the prosecutrix. 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 in the school register the date of birth of the prosecutrix is 23.9.2004, therefore, she was of age below 16 years on the date of incident. Her consent or willingness is immaterial. The offence registered against the applicant is clearly made out. Hence, no case is made out for grant of bail to the applicant.

4. Learned counsel appearing on behalf of the complainant submits that the complainant has no objection in grant of bail to the applicant.

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

6. The prosecution case is that the minor prosecutrix was abducted by the applicant. The prosecutrix was kept in his custody for quite sometime and during that period the prosecutrix was subjected to sexual relation with the applicant. After the information given to the police, the prosecutrix was recovered from the custody of this applicant. Hence, this case.

7. Considered the submissions and the facts of the case. Perused the copy of the statement of the prosecutrix under Section 164 of the Cr.P.C. filed alongwith the applicant and also considered the statement of no objection made by the complainant's side and I am of this view that the

applicant should be benefited with grant of regular bail.

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