

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 8382 of 2020**

Sheetal Nirmalkar, S/o. Shri Santosh Nirmalkar, aged about 22 years, R/o. Village Ranitarai, Ward No. 7, Police Station - Ranitarai, District Durg Chhattisgarh.

---- Applicant**Versus**

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

---- Respondent

For Applicant : Mr. S.S. Baghel, Advocate

For Respondent/State : Mrs. Smita Jha, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/01/2021**

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.112/2020, registered at Police Station –Patan, District – Durg (C.G.) for the offence punishable under Section 363, 366, 376 (2) (ब) of the Indian Penal Code and Section 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The prosecutrix was

not minor on the date of incident and her statement under Section 164 of Cr.P.C. mentions about an affair and relation of the applicant with the prosecutrix, in which no allegation has been made against him. False FIR has been lodged by the father of the prosecutrix. Hence, it is prayed that the applicant may be enlarged on bail.

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 on the date of incident the age of the prosecutrix was only 15 years, therefore, any willingness or consent on her part is immaterial. Hence, this applicant is not entitled for grant of bail.
4. Notice was issued to the complainant/informant, which has been returned served, but there is no appearance and no representation.
5. I have heard the learned 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 and then by keeping her in his custody, he had physical relation with her, which amounts to commission of offence of rape.
7. Considered on the submissions and the facts present in this case. Looking to the statement that has been given by the prosecutrix under Section 164 of Cr.P.C. and other circumstances present, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram