

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.Cr.C. No.8517 of 2020**

- Foolmatiya Kindo S/o Shri Puse Kindo Aged About 50 Years Caste Uraon, R/o Village Natkela, Police Station Bagicha, District Jashpur Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Bagicha, District Jashpur Chhattisgarh

**---- Non-applicant**

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For Applicant : Mr. Sanjeev Kumar Sahu, Advocate.

For Non-applicant/State : Mr. B.P. Banjare, Dy. Govt. Advocate.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**  
**Order on Board**

**18-01-2021**

1. Heard on the application filed under Section 439 of the Cr.P.C. The applicant has been arrested on 14.06.2020, in connection with Crime No.59/2020, registered at Police Station- Bagicha, District- Jashpur, C.G. for offence punishable under Sections 376 (A)(B), 114 of I.P.C. and under Sections 4, 5(३), 6 and 17 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the case. The prosecutrix and the other witnesses have been examined in trial, who have not supported the prosecution case. Hence, it is prayed that this applicant be granted bail to the applicant.
3. Learned counsel for the State/non-applicant opposes the application and submits that there are serious allegations against this applicant regarding giving abetment for the commission of offence of rape with the minor victim of age about 12 years, therefore, she is not entitled for

grant of bail.

4. Notice issued to the complainant has not been returned served or unserved, however, there is no allegation of rape against this applicant, hence, the compliance of Section 439 (1A) of Cr.P.C. with respect to this applicant is not necessary.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, it is alleged that this applicant was unable to bear a child, therefore, she instigated her husband, the co-accused to have physical relation with the minor victim of age about 12 years and as a result of that instigation the offence was committed by the co-accused which resulted in the pregnancy of the minor prosecutrix regarding which F.I.R. has been lodged.
7. Considered on the submissions and perused the certified copy of depositions of the witnesses, the prosecutrix (P.W.-2) has not identified this applicant and has not supported the prosecution case. Similar is the statement of father of prosecutrix (P.W.-1), therefore, looking to this development in the case, I feel inclined to allow this application.
8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed, on condition as imposed by the concerned Court.
9. Certified copy as per rules.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge