

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 8467 of 2020**

- Dinesh Gour S/o Tulsiram Gour, Aged About 25 Years, R/o Village - Naagjhiri Burhanpur, Ward No.15, Police Station City Kotwali Burhanpur District - Burhanpur (M.P.), Madhya Pradesh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through Police Chowki Jobi, Police Station Kharsiya, District - Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

**---- Non-applicant**

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For Applicant – Shri F.S. Khare, Advocate.

For Non-applicant/State – Shri B.P. Banjare, Deputy Govt. Advocate.

Shri Aditya Khare, Advocate for the complainant.

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

**Order on Board**

**08-01-2021**

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 24-10-2020 in connection with Crime No.501/2019 registered at Police Station – Police Chowki Jobi, Police Station Kharsiya, District - Raigarh, Chhattisgarh for the offence under Section 363, 366, 376 of the IPC and under Section 4, 6 of POCSO Act.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The prosecutrix was not minor on the date of incident. The statement under Section 164 of the Cr.P.C. clearly shows about affair and consensual relationship of the applicant and the prosecutrix. The prosecutrix herself has no objection in grant of bail to the applicant. She has appeared before the Sessions Court to make such statement, which was not considered. The prosecutrix is also present before this Court to make such statement. Therefore, it is prayed that the applicant be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the prosecutrix was of age 16 years and 9 months on the date

of incident, therefore, she was not competent for giving any consent for such relation. Hence, offences are clearly made out against the applicant. Therefore, the application may be rejected.

4. Learned counsel for the complainant submits that the complainant and the prosecutrix both have no objection in grant of bail. The prosecutrix is present before this Court who has been identified by learned counsel for the complainant. She has stated that the applicant be granted bail.

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

6. The prosecution case is this, that this applicant allured the minor prosecutrix with promise to marry her and then he abducted her. The applicant and the prosecutrix then have performed marriage and they had physical relation on numerous occasions because of which the prosecutrix became pregnant and she has given birth to a child.

7. Considered on the submissions and also on the present circumstances of this case. The prosecutrix intends to favour the applicant. Therefore, for this reason 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.

9. Certified copy as per rules.

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