

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C. No. 8616 of 2020**

Charan Singh Yadav, S/o. Shri Visnath Yadav, aged about 29 years, R/o. Village - Rawas, Thana and Tahsil - Kanker, District - North Bastar Kanker Chhattisgarh.

---- Applicant

**Versus**

The State of Chhattisgarh, Through : The Station House Officer, Police Station - Kanker, District - North Bastar Kanker Chhattisgarh.

---- Respondent

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| For Applicant        | : Mr. Sunil Sahu, Advocate  |
| For Respondent/State | : Mr. B.P. Banjare, Dy.G.A. |

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

**Order On Board****21/01/2021**

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.239/2020, registered at Police Station –Kanker, District – North Bastar Kanker (C.G.) for the offence punishable under Section 363, 366, 376, 376 (2) (n) 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. The conduct of the prosecutrix shows that she was a consenting party as she never objected to staying with

the applicant and never made any complaint to anyone. Therefore, no case is made out against this applicant. 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 the prosecutrix has given statement under Section 161 of Cr.P.C. that the applicant used to have physical relation with her despite her objection. Hence, it is a case of forceful sexual intercourse, which amounts to commission of offence of rape. Further the prosecutrix was minor on the date of incident. Hence, the applicant is not entitled to be released on bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, it is alleged that this applicant abducted the minor prosecutrix on 18.08.2020 on pretext of marrying her and then he exploited her sexually. A missing report was lodged by her father on 31.08.2020. The prosecutrix was recovered by the police on 27.10.2020 from the custody of this applicant and according to the statement made by the prosecutrix, offence of abduction and rape has been registered against this applicant.
6. Considered on the submissions and the facts present in this case. Looking to the other circumstances that are present and after considering on the statement of the prosecutrix under Section 161 of Cr.P.C., this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. 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