

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 8836 of 2020**

Kumesh Kumar Sahu S/o Bodhram Sahu Aged About 24 Years R/o Village- Achhoti- Ward No. 17, Tahsil And Police Station Kurud, District- Dhamtari (Chhattisgarh).

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Kurud, District- Dhamtari (Chhattisgarh).

---- Respondent

For the Applicant : Shri Sanjeev Kumar Sahu, Advocate.
For the Respondent/State : Shri Gurudev I. Sharan, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****29.01.2021**

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.444 of 2020, registered at Police Station – Kurud, District – Dhamtari, Chhattisgarh for the offence punishable under Sections 363, 366 and 376-A, B of the Indian Penal Code and Section 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 26.8.2020 and has been falsely implicated in this case. There is no allegation against this applicant regarding the commission of offence of rape with the minor prosecutrix. The statement of the prosecutrix under Sections

161 and 164 of the Cr.P.C. is clear on this point. Hence, it is prayed that the applicant 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 age of the prosecutrix in this case is only 10 years. There is a clear statement that this applicant actively participated in the commission of offence of rape by the co-accused in which he held the hands of the minor prosecutrix and facilitated in the commission of offence of rape. Further, the applicant has been identified by the minor prosecutrix in the test identification parade. Hence, no case is made out for grant of bail to the applicant.

4. Complainant – Rukhmani Bai is present before this Court on notice. She made a statement that she has strong objection in grant of bail to the applicant.

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

6. According to the prosecution case, it is alleged that on the date of incident, the co-accused abducted the minor prosecutrix and took her to a lonely place where this applicant was present and then with the help of this applicant the co-accused committed the offence of rape with the minor prosecutrix regarding which, the FIR has been lodged by the mother of the prosecutrix.

7. Considering the submissions and the facts present in this case, I am of this view that it is not a fit case where the applicant should be benefited with grant of regular bail during the pendency of trial.

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

Sd/-

(Rajendra Chandra Singh Samant)
Judge