

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 9247 of 2020**

Vijay Nirala, S/o. Shri Dhanaram Nirala, aged about 22 years, R/o. Devrimath Police Station Hasoud, District Janjgir- Champa, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through : P.S. Baramkela, District Raigarh, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Ashutosh Trivedi, Advocate
For Respondent/State	: Ms. Rina Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****23/02/2021**

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.171/2020, registered at Police Station – Baramkela, District – Raigarh (C.G.) for the offence punishable under Section 363, 366, 376 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 applicant intends to challenge the ground of minority of the prosecutrix, which is based only on the entry of the school register, which is not a conclusive evidence. The prosecutrix had been a consenting party, who never objected while accompanying and residing with the applicant for about 8 days until her recovery. Hence, it is prayed that

the applicant may be released 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 was minor of age about 16 years and 7 months only, therefore, her consent or willingness is of no consequence. Therefore, the applicant is not entitled for grant of 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 the applicant abducted the minor prosecutrix and took her to a place where he kept her in his custody and exploited her sexually knowing well that she was not capable of giving consent for such relationship.
6. Considered on the submissions and the facts of the case. Considering the same 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