



2026:CGHC:13714



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HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC No. 1571 of 2026

- Jafar Khan S/o Sahajuddin Khan Aged About 23 Years R/o Village Gurdi, P S Gadhwa, District Gadhwa, Jharkhand

... Applicant(s)

versus

- State Of Chhattisgarh Through Station House Officer Of Police Station Gharghoda, District- Raigarh, C.G.

---- Non-Applicant

For Applicant	:	Mr. Hariom Rai, Advocate
For-Non-applicant	:	Mr. Jitendra Shrivastava, G.A.
For Amicus Curiae	:	Ms. Shresal Gupta, Advocate

Hon'ble Shri Arvind Kumar Verma, Judge

Order on Board

23.03.2026

1. This is the **First bail application** filed under Section 483 of the B.N.S.S. for grant of regular bail to the applicant who has been arrested in connection with Crime No. 167/2024 registered at Police Station Gharghoda, District Raigarh (C.G.), for the offence punishable under Sections 363, 366, 376(2)(n), 344/34 of IPC and Section 4, 6, 17, 21 of POCSO Act.
2. The allegation against the present applicant as per the prosecution case is that, the father of the prosecutrix lodged a report on 09/05/2024 alleging therein that on 11/04/2024 his minor daughter had gone to her



uncle's house namely Rizwan Khan in Gharghoda. Thereafter, on 06/05/2024 the said Rizwan Khan informed the complainant that the daughter of the complainant is missing since since 2'o clock in the noon and despite being searched nothing could be traced out. The complainant on the apprehension that someone has enticed away her minor daughter lodged the report. On the basis of the aforesaid report an FIR against the unknown person was registered. Thereafter, during investigation the prosecutrix was recovered from the possession of the mother of the present applicant. And than fact has been came out in the investigation that the present applicant on the pretext of marriage taken the prosecutrix along with him and had done the marriage and after that both of them had developed a physical relationship and on the basis of that aforementioned story of prosecution offence under section 363,366,376(2)(n),344,34 of IPC and 4,6,17,21 of POCSO act charge sheet has been filed against the present applicant along with the other accused person, and in between the investigation the applicant had arrested on 14/02/2025.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case and has not committed any offence as alleged; that the co-accused persons have already been granted bail by this Hon'ble Court as well as the learned Trial Court and, therefore, the case of the present applicant stands on parity; that the FIR has been lodged with an unexplained delay of three days from the alleged date of incident; that the applicant is in judicial custody since 14/02/2025 and has no previous criminal antecedents; that out of 27 prosecution witnesses only 5 have been examined and the



trial is likely to take considerable time to conclude; that the statements of the prosecutrix are contradictory and appear to have been made under undue pressure; that the material on record suggests a case of consent and the age of the prosecutrix has not been conclusively established and that the medical evidence does not support the prosecution case, hence he deserves to be enlarged on bail.

4. Learned State counsel opposes the bail application and submits that PW-2 has stated in his deposition that the father of the prosecutrix received an envelope through post, which contained a marriage agreement/ikrarnama executed on a ₹10 stamp paper along with a photocopy of the Aadhaar Card of the prosecutrix, wherein her date of birth was mentioned as 05.07.2005; whereas the father of the prosecutrix has stated that the date of birth mentioned in the Aadhaar Card had been enhanced/manipulated and the prosecutrix was in fact only about 14 years and 10 months old at the time of the incident, thereby clearly establishing her minority.
5. Learned counsel for State Counsel submits that so-called marriage document has no legal sanctity in the eyes of law, particularly when the prosecutrix is a minor; that in cases involving a minor victim, the question of consent is wholly immaterial. Moreover, the allegations against the applicant are grave and serious in nature, supported by material collected during investigation; therefore, in view of the minor age of the prosecutrix, the gravity of offence, and the conduct of the applicant, the present applicant is not entitled to be released on bail and the application deserves to be rejected.



6. Notice issued to the victim has duly been served, however, no one appeared on behalf of the victim. In such circumstances, Ms. Shrejal Gupta, Advocate, who is present in the Court is appointed as amicus curiae to assist the Court on behalf of the victim.
7. After going through the documents, Ms. Shrejal Gupta, Advocate, appointed as amicus curiae, opposes the prayer for grant of bail for the applicant
8. Considering the rival submissions made by learned counsel for the parties, perusal of the case diary and material available on record, and without expressing any opinion on the merits of the case, this Court finds that there appear to be material inconsistencies in her statements; further, the co-accused person has already been granted bail and the case of the present applicant stands on parity, the applicant is in judicial custody since 14/02/2025 and has no previous criminal antecedents, and out of 27 prosecution witnesses only 5 have been examined, therefore the trial is likely to take considerable time to conclude; thus, in view of the overall facts and circumstances of the case, this Court is inclined to allow the present bail application.
9. Let the applicant be released on bail on his furnishing a personal bond of Rs. 10,000/- with one surety in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the



trial court on each date fixed, either personally or through their counsel. In case of his absence, without sufficient cause, the trial court may proceed against them under Section 269 of Bhartiya Nyaya Sahita, 2023

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 84 of BNSS 2023. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 209 of Bhartiya Nyaya Sahita, 2023

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of BNSS 2023. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against them in accordance with law.

- 10.** Office is directed to send a certified copy of this order to the trial Court concerned for necessary information.

Sd/-

**(Arvind Kumar Verma)
JUDGE**