

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.5087 of 2015

Bhagwat Bhat, S/o Chatur Bhat, aged about 23 years, Labour Worker, R/o Nayaganj Ward, Police Station Bhatapara (Town), Civil and Revenue District Baloda Bazar/Bhatapara (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station Bhatapara (Town), Civil and Revenue District Baloda Bazar/Bhatapara (C.G.)

---- Non-applicant

For Applicant:	Mr. J.R. Verma, Advocate.
For Non-applicant:	Mr. Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

23/09/2015

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.46/2015, registered at Police Station Bhatapara (Town), Distt. Baloda Bazar/Bhatapara, for the offence punishable under Sections 376, 363, 366 of the IPC, 17 and 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that on 19-2-2015, the applicant abducted minor prosecutrix and is said to have committed forceful sexual intercourse with her.
3. Learned counsel for the applicant submits that the applicant has not committed any offence, he has been falsely implicated in the crime and he is in jail since 1-8-2015. He further submits that the prosecutrix is major aged about 18 years which is apparent from the birth certificate issued by the police station on 16-8-2015 clearly indicating the date of birth of the

prosecutrix as 24-11-1996 as such, she is more than 18 years of age. The applicant had already married the prosecutrix which is apparent from her statement recorded under Section 161 of the CrPC and also she is carrying pregnancy of 6 months. Therefore, case of the prosecution is false and frivolous in which the applicant has been arrested on 1-8-2015. Charge-sheet has been filed.

4. On the other hand, learned State counsel opposes the application and submits that the prosecutrix, on the date of offense, was only 14 years 10 months of age and the said certificate has been issued on 16-8-2015 after registration of case, such a document is not reliable, however, the applicant is free to establish the age of the prosecutrix during the course of trial. Looking to the age of the prosecutrix i.e. less than 15 years on the date of offence, it would not be proper to grant bail to the applicant.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, the fact that the prosecutrix was said to be minor of only 14 years 10 months age on the date of offence and the manner in which she was said to have been subjected to forceful sexual intercourse, I do not consider it a fit case for grant of regular bail to the applicant. The application is rejected.

Sd/-
(Sanjay K. Agrawal)
Judge