

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Criminal Case No.2659 of 2016

Aditya Pandey, son of Shyam Pandey, aged about 22 years, R/o Baniya Kachhar Tola Vikrampur, Police Station Kuchaykot, District Gopalganj, Bihar

---- Applicant

versus

State of Chhattisgarh, through Station House Officer, Police Station Kotra Road, Raigarh, District Raigarh, Chhattisgarh

---- Respondent

For Applicant	:	Shri Amit Singh, Advocate
For State/Respondent	:	Shri Vivek Sharma, Government Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

8/6/2016

1. This is an application filed under Section 439 Cr.P.C. for grant of regular bail to the Applicant, who has been arrested in connection with Crime No.143 of 2013 registered at Police Station Kotra Road, Raigarh, District Raigarh (Chhattisgarh) for the offence punishable under Sections 363, 366, 376 IPC and Sections 4 and 12 of the Protection of Children from Sexual Offences Act, 2012. The Applicant is in jail since 30.7.2015.
2. Case of the prosecution, in brief, is that the present Applicant is said to have eloped with the prosecutrix on 18.6.2013 and was subsequently recovered on 29.7.2015. As per the prosecution, the date of birth of the prosecutrix is 8.1.1997 and as such the age of the prosecutrix on the date of incident was 16½ years and when the Applicant and the prosecutrix were recovered, the prosecutrix was aged about 18 years and 5 months.
3. Learned Counsel for the Applicant submits that it is a case where the present Applicant and the prosecutrix were having a love affair and

they had jointly decided to elope from their houses and they had gone to different places together. There is no allegation whatsoever against the present Applicant for having committed offence under Section 376 IPC or for that matter under Sections 363 and 366 IPC. The prosecutrix has been examined before the Court below and she has not supported the case of the prosecution. The Applicant has already remained in jail for about 11 months. Therefore, taking into consideration all these facts, the Applicant may be released on bail.

4. Learned Counsel for the State opposes the bail application stating that on the date of the incident the prosecutrix was aged about 16½ years and accordingly was a minor girl and therefore the Applicant should not be released on bail.

5. I have heard Learned Counsel appearing for the parties.

6. Without commenting on merits, considering the totality of the facts and circumstances of the case, submissions of either side and taking into consideration the fact that on the date when the Applicant had eloped with the prosecutrix he was also aged about 18-19 years and that the prosecutrix on the date of recovery was already a major and that she has not supported the case of the prosecution in the statement made by her before the Court below as also that the Applicant has already remained in custody for about 11 months, this Court is of the opinion that the present is a fit case in which the Applicant could be enlarged on regular bail.

7. Accordingly, the bail application is allowed.

8. It is directed that the Applicant shall be released on bail on furnishing a personal bond in the sum of Rs.20,000/- (Twenty Thousand) with two sureties in the like sum to the satisfaction of the trial Court and

for his appearance before the said Court as and when directed.

9. Certified copy as per rules.

Sd/-
(P. Sam Koshy)
Vacation Judge