

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5045 of 2016

- Ashish Kumar Ojha, S/o Ashok Kumar Ojha, Aged About 18 Years Caste Bramhan, R/o Tikrapara, Behind Jalaram Mandir, Bilaspur, Police Station City Kotwali, District Bilaspur Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh through Police Station Koni, District Bilaspur Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Amarnath Pandey, Advocate
For the State	:	Mr. Anupam Dubey, Dy.Govt. Adv.
For the objector	:	Mr. Sumit Shrivastava, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19.09.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 139 of 2016 registered at P.S. Koni, Bilaspur Distt. Bilaspur (C.G) for the offence punishable under Section 376(1) of IPC, Sections 3(1) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as also Sections 3 & 4 of the Protection of Children from Sexual Offences Act.
2. As per the prosecution case, the applicant committed sexual intercourse with the prosecutrix on the pretext of marriage and thereafter she became pregnant and when she asked for marriage, the applicant refused to marry her. The prosecutrix being minor the offence has been committed.
3. Learned counsel for the applicant would submit that the applicant and prosecutrix were living together as husband and wife and they have performed marriage. He further submits that according to the documents, the prosecutrix

herself has met the applicant in jail many a time which would go to show that the prosecutrix was consenting party, therefore, no offence has been committed.

4. Per contra, learned State Counsel as also learned counsel for the applicant vehemently opposes the bail.
5. Perused the statements of prosecutrix u/s 161 & 164 Cr.P.C. Considering such statements and age of the prosecutrix who is stated to be minor, I am not inclined to allow this bail application. Accordingly, it is rejected.

Sd/-
GOUTAM BHADURI
JUDGE