

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5147 of 2017**

- Bhuvneshwar S/o Saahukar Marar, Aged About 20 Years R/o Village Dhangaon, Police Station And Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sahaspur Lohara, District Kabirdham, Chhattisgarh

---- Respondent

For applicant	: Shri PP Sahu, Advocate
For respondent/State	: Shri Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****23.11.2017**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, for grant of bail to the applicant who has been arrested on 05.7.2017 in connection with Crime No.152/2017, registered at Police Station Sahaspur Lohara, Distt. Kabirdham (CG) for the offence punishable under Sections 376, 450 & 506 of the Indian Penal Code and under Sections 3 & 4 of Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

2. As per the prosecution story, it is alleged that at about 10.00 pm, the prosecutrix was the sleeping in her house, the accused/appellant entered into the room and closed the door and thereafter committed sexual intercourse with her without her will and consent.

3. Learned counsel for the applicant submits that medical evidence did not support the allegation levelled against the applicant. The prosecutrix did not make any hue and cry at the time of the incident, hence it is a matter of consent.

4. On the other hand, learned counsel for the State opposes the bail application and submits that there is prima facie case against the applicant, therefore, he is not entitled for bail.

5. I have heard learned counsel for the parties and perused the case diary.

6. Date of birth of the prosecutrix is 14.8.2000 and the date of incident is 19.6.2017. On the date of incident the prosecutrix was aged about 16 years and 10 months and was a child as defined under Section 2 of the POCSO Act. Looking to the age of the prosecutrix and that at the time of the commission of offence she was in her house at about 10.00 pm and considering the prima facie evidence collected by the prosecution against the applicant, it is not a fit case to grant bail to the applicant.

7. Accordingly, bail application filed under Section 439 CrPC is hereby rejected.

Sd/-

(Ram Prasanna Sharma)

JUDGE