

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5127 of 2017**

- Sonu Bandhe @ Chotu S/o Hemlal Bandhe Aged About 19 Years Resident Of Sanjay Nagar, Chingri Para, Near Shiv Mandir, Supela, District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Supela, Bhilai, District Durg, Chhattisgarh.

---- Respondent

For Revisioner/applicant : Shri Ravi Bhagat, Advocate on behalf of
Shri Jitendra Gupta, Advocate
For respondent/State : Shri Anil Pandey, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****21.11.2017**

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 21.3.2017 in connection with Crime No.959/2016, registered at Police Station Supela, District- Durg (CG) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code

2. Learned counsel for the applicant submits that both the prosecutrix and the applicant have affair and they got married, hence, no case is made out against the applicant.

3. On the other hand, learned counsel for the opposes the bail application.

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

5. In the present case, date of birth of the prosecutrix is 02.11.1999 and the date of incident is 25.10.2016. On the date of incident, the prosecutrix was aged about about 16 years and 11 months and she was minor and she was a child as defined under Section 2d of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act'). From the statement of the prosecutrix there was prima facie evidence of kidnapping her from the lawful guardianship and commission of rape and commission of penetrating sexual act as per the POCSO Act.

6. Looking to the fact that the prosecutrix is a minor and is a child as per the POCSO Act and further looking to the fact that there is prima facie evidence of kidnapping and penetrating sexual assault, it is not a fit case to enlarge the applicant on bail.

7. Accordingly, application filed under Section 439 of the CrPC is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)

JUDGE