

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 5776 OF 2017

Gopeshwar Vishwakarma @ Gopu S/o Aanand Vishwakarma, aged about 22 years, R/o village Pachari, Ward No.7, Chobey Colony, Siliari, Police Station Dharsiwa, Distt. Raipur (CG).

... Applicant

Versus

State of Chhattisgarh, through its Police Station Dharsiwa, Distt. Raipur (CG).

... Respondent

For Applicant	:	Shri BL Sahu, Advocate.
For Respondent-State	:	Shri Gary Mukhopadhyay, Dy. GA.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/11/2017

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 02.06.2017 in connection with Crime No. 203 of 2017 registered at Police Station Dharsiwa, Distt. Raipur for the offence punishable under Sections 363,366 and 376 IPC and under Section 4 of the POCSO Act.
2. As per prosecution case, the applicant is said to have abducted the prosecutrix, a minor girl aged around 17 years and 3 months, and is said to have stayed with her for a considerable long period of time and also had physical relationship with her.
3. Learned Counsel for the applicant submits that it is a case where according to prosecutrix herself as is reflected from her 164 CrPC statement, she had voluntarily gone along with the applicant as they

were having love affair and they decided to elope and stay together, and therefore he may be enlarged on bail.

4. Opposing the bail application, learned Counsel for the State submits that the prosecutrix in the instant case is a minor girl aged about 17 years and 3 months on the date of incident and therefore even if there was an element of consensual relationship, it was in consequence and therefore, the applicant may not be enlarged on bail.
5. Without commenting on merits, considering the totality of the facts and circumstances of the case particularly taking note of the age of the prosecutrix as well as that of the applicant who is also a young boy of 22 years and also taking note of the statement of the prosecutrix under Section 164 CrPC, this Court is of the opinion that the present is a fit case where the Applicant can be enlarged on bail.
6. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed.

Sd/-
(P. Sam Koshy)
Judge