

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 5858 of 2017**

Rajendra Mahato S/o Ramesh Prasad Mahato, aged about 27 years,
R/o Ward No. 3, Manendragarh, Police Station & Tahsil
Manendragarh, District Korea, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through Police Station Incharge Manendragarh,
District Korea, Chhattisgarh.

---- Respondent

For Applicant	:	Smt. Anju Ahuja, Advocate
For Respondent/State	:	Shri D. R. Minj, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****30/11/2017**

The present application has been filed u/s 439 of Cr.P.C. for grant of bail to the applicant who has been arrested in connection with Crime No. 17/2017 registered at Police Station Manendragarh, District Korea (CG) for the offence punishable under Sections 341, 363, 366, 506 & 376 of IPC and Sections 4 & 8 of Protection of Children from Sexual Offences Act. The applicant is in jail since 03.02.2017.

2. As per the prosecution, the applicant is said to have forcibly taken the prosecutrix on his Scooter to a nearby isolated place and there he committed rape on her. Somehow, the prosecutrix managed to escape from the clutches of the applicant and reached her house. Subsequently after few days, she disclosed this fact to the family members. Though the incident is of 18.01.2017, the FIR was lodged after about 5 days on 23.01.2017.

3. Counsel for the applicant submits that it is a case of false implication as the father of the applicant had filed a complaint against the uncle of the prosecutrix and on the said complaint, a departmental action was initiated and he was also punished for the same. Therefore, in order to take a revenge, the prosecutrix has been planted to falsely implicate the applicant. Counsel for the applicant submits that there is a delay of 5 days in lodging of the FIR with no plausible and satisfactory explanation given for the delay caused. It was contended that the age of the prosecutrix was also doubtful as there was no definite proof of her age so as to hold that she was a minor. Lastly it is contended that the medical examination of the prosecutrix revealed that her hymen was old ruptured and that in the medical examination also, semen was not found in her private part, therefore, the possibility of rape has also not established. In such circumstances, counsel for the applicant prays for the applicant to be released on bail.

4. State counsel, however, opposing the bail application submits that the statement of the prosecutrix was recorded on 23.01.2017 i.e. on the date of lodging of the FIR itself. From the statement of the prosecutrix it is evidently clear that she was very much upset from the incident and she did not disclose it out of sheer depression to any of the family members. Ultimately after much persuasion of the family members, she could divulge and thereafter the matter was reported to the Police explaining the delay part. So far as the false implication is concerned, State counsel submits that the statement of the prosecutrix reveals that she was not knowing the accused before the incident at all. As regards other contentions raised, State counsel submits that those are the matters to be considered during the course of trial and there was no reason to disbelieve the prosecutrix, a minor girl less than 14 years age. Thus, prayed for rejection of the bail

application.

5. Taking into consideration the manner in which the offence was committed, the age of the prosecutrix and the fact that there was no strong material to disbelieve the statement of the prosecutrix, this Court is not inclined to grant bail at this juncture to the applicant.

6. Accordingly, the instant bail application filed under Section 439 CrPC stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE