

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5960 of 2017

Mashook Sheikh S/o Shri Shakoor Sheikh, Aged About 24 Years R/o Village Kasania, Ward No. 14, Police Station Katghora, District Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Katghora, District Korba, Chhattisgarh.

---- Respondent

For Applicant : Mr. Afroj Khan, Advocate

For Respondent : Mr. Anil S Pandey, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/11/2017

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 37/2017 registered at Police Station- Katghora District Korba (C.G.) for the offence punishable under Sections 363, 376 of the IPC and Section 4 Protection of Children from Sexual Offences Act, 2012.
2. As per the prosecution case, the date of birth of the prosecutrix is 06.09.2000 and the date of incident 30.01.2017. On the date of incident, the prosecutrix was aged about 16 years and 4 months. As per allegation the applicant kidnapped the minor girl and committed penetrative sexual on a child. The prosecutrix is a child as defined under Section 2(b) of the Protection of Children from Sexual Offences Act, 2012.
3. Counsel for the applicant submits that the prosecutrix has not supported the case of the prosecution. He submits that the applicant is in jail since 23.02.2017, therefore, he may be enlarged on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.

5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Looking to the fact that the prosecutrix is a child and unable to give consent for any purpose and further looking to the fact that there is prima facie evidence of penetrative sexual assault against the child, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Ram Prasanna Sharma)
Judge

Santosh