

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6046 of 2017**

Musir Khan S/o S/o Shri Narmad Khan Aged About 18 Years R/o Faijil
Jaitha Police Station Badau District Badau Uttar Pradesh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer Police Station
Civil Line Bilaspur District Bilaspur Chhattisgarh.

---- Respondent

For the Applicant : Shri Ankur Agrawal, Advocate.
For the Respondent/State : Shri U.K.S. Chandel, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.11.2017**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.250 of 2017, registered at Police Station – Civil Lines, Bilaspur, District – Bilaspur, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. The prosecutrix in this case was not of aged below 18 years on the date of incident and she had in love affair with the applicant on her own free will and lived with the applicant for almost 1 ½ years in Delhi. Thereafter, they have formally performed marriage and have

a child out of this marriage. The prosecutrix in this case has submitted an affidavit before the trial Court stating that she has no objection if the applicant is released on bail, which has not been considered by the trial Court. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that as per the evidence in the case diary the age of the prosecutrix on the date of incident was 16 years i.e. below 18 years as required. Hence, even if there is consent of the prosecutrix, the offence has been committed by the applicant. Hence, for these reasons, the applicant is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. After perusing the statement of the prosecutrix given before the Judicial Magistrate under Section 164 of the Code of Criminal Procedure and also considering the other factors and the submissions of the parties, I am of the considered view that in this case the applicant deserves to be enlarged on bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to

the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi