

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.1967 of 2017**

Satyanarayan Paikra S/o Birbal Paikra, Aged About 23 Years
R/o Village Khumri, Police Station Rajpur, District Balrampur,
Ramanujganj Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police
Station Lundra, District Surguja Chhattisgarh

---- Respondent

For Applicant	: Shri Sushil Dubey, Advocate
For Respondent/State	: Shri Sumit Jhawar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****18.7.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.50/2016 registered in Police Station Lundra, Distt. Surguja (CG) for the offence punishable under Section 363, 354, 120B, 366(A) of the Indian Penal Code and under Sections 7, 8 & 17 of Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act')

3. Learned counsel for the applicant submits that the applicant has been arrested on 20.12.2016, after investigation, concerned police has filed charge sheet which is pending before Additional Sessions Judge (FTC)/Special Judge under the provisions of POCSO Act, Surguja at Ambikapur as Special Criminal Case

POCSO No.07/2017. Learned counsel for the applicant would submit that the incident is of 22.4.2016, on 01.5.2016 father of the prosecutrix lodged missing report and the prosecutrix was recovered on 05.5.2016. FIR was lodged on 11.5.2016. As per the contents of the missing report, co-accused Arti, who was granted bail by the coordinate Bench of this Court on 06.3.2017 in MCRC No.1446/2017, informed father of the prosecutrix regarding missing of the prosecutrix and when the father came in search of the prosecutrix he noticed that the prosecutrix was with the applicant and his family members which goes to show that it is a case of consent. Statement of the prosecutrix was recorded under Section 161 Cr.P.C. after about eight months. The applicant is in custody since 20.12.2016 and as co-accused has already been granted bail, present applicant may also be granted bail.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant.

5. Perused the entire material.

6. On due consideration of the order dated 06.3.2017 passed in M.Cr.C. No.1446/2017, it appears that case of the co-accused Arti is distinguishable from the present applicant. In the present case prosecutrix is a child under the definition of Section 2d of the POCSO Act for which the evidence is collected. After perusal of the entire facts, statement of the prosecutrix, her consent is not valid under the provisions of law. On due consideration of the entire facts, I am not inclined to grant bail to the applicant.

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

Sd/-

(Chandra Bhushan Bajpai)

JUDGE

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