

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2519 of 2017

- Ashirwad Kumar Pratim S/o Vinod Kumar Pratim, Aged About 29 Years R/o Village Badajamda, Police Station Guaa, District West Singghum, Jharkhand, Presently Posted At Pravesnari Office, Dena Bank, Branch Baghbahara, Police Station And Tehsil Baghbahara, District Mahasamund Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Baghbahara, District Mahasamund Chhattisgarh

---- Respondent

For Applicant	Shri Prasoon Agrawal, Advocate
For Respondent/State	Shri Arvind Shukla, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/11/2017

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.44/2017, registered at Police Station Baghbahara, Dist. Mahasamund, for the offence punishable under Sections 363, 366 & 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the instant case. The prosecutrix was major on the date of incident and her age was 23 years as per copy of the Aadhar Card (Annexure - A/3). The prosecutrix herself has given a written statement in the police station Baghbahara stating that her age was 23 years and she has taken the decision on her own free will and, therefore, nobody should be harassed. She has also given the statement under Section 164 of the Cr.P.C. in favour of the applicant. Learned counsel would next submit that the trial has commenced and the prosecutrix has been examined by the trial Court in which she has categorically stated that she had a love affair with the applicant and on account of which she left with him and had physical relation with him. In the cross-examination the prosecutrix has admitted about the date of birth entered in her Aadhar Card i.e. 4-10-1993. Therefore, it is prayed that the applicant may 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 marksheet of the prosecutrix, seized during the course of investigation, her date of birth is 3-7-2000 and, as such, she was minor on

the date of incident. Thus, the applicant is not entitled for grant of bail.

4. I have heard the learned counsel for both the parties and perused the case diary.
5. Facts of the case, in short, are that on 8-3-2017 the family members of the prosecutrix lodged a missing report in police station Baghbahara, District Mahasamund against unknown person. Later on the prosecutrix was recovered from the custody of the applicant on 11-3-2017 from Badajamda (Jharkhand). Thereafter, on the basis of statement given by the prosecutrix and other witnesses the case has been registered under Sections 363, 366 & 376 of the IPC and Section 4 of the POCSO Act against the present applicant.
6. Having considered the facts and circumstances of the case; contents of case diary; statement of the prosecutrix recorded under Section 164 of the Cr.P.C.; her statement recorded before the trial Court; and looking to the fact that the applicant is in detention since 12-3-2017 and no purpose would be served, if he is kept in custody till the conclusion of trial, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his 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.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Gowri