

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2591 of 2017**

- Sevakram Sahu S/o Late Mandas Sahu Aged About 21 Years R/o Chouthna, Thana And Tahsil Dongargarh, District- Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- The State Of Chhattisgarh Through Police Station, Dongargarh, District- Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	: Shri Parag Kotecha, Advocate
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****03.7.2017**

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.16/2016 registered in Police Station Dongargarh, Distt. Rajnandgaon (CG) for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and under Sections 4 & 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

3. Learned counsel for the applicant submit that the applicant has been arrested on 12.01.2017, after investigation, police has filed charge sheet which is pending before Additional Judge, Dongargarh to the Court of First Additional Sessions Judge, Rajnandgaon/ Special Judge under the POCSO Act as Special POCSO Case

No.04/2017. Learned counsel for the applicant would submit that the prosecutrix went along with the applicant on her own, at Bagalore she performed Marriage with the applicant, hence in the light of Section 375 proviso exception 2 of the IPC whereby nothing is an offence if any sexual intercourse or sexual act by a man with his own wife, the wife not being under fifteen years of age, is not rape.

4. Per contra, learned counsel for the State opposes the bail application and would submit that the prosecutrix is a child as defined under Section 2(1)(d) of the POCSO Act, 2012 and also as per law, she is minor, consent is of no help to the applicant if at all granted.

5. Perused the entire material.

6. On due consideration of the material collected, I am not inclined to grant bail to the applicant.

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

Sd/-
(Chandra Bhushan Bajpai)
JUDGE