

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3632 of 2017

- Birbal S/o Shobhit, Aged About 24 Years R/o Baghima, Tahsil Rajpur, District Balrampur Ramanujganj, Chhattisgarh.

---- Applicant (In Jail)

Versus

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

---- Respondent

For Applicant	:	Shri Varuendra Mishra, Advocate
For Respondent	:	Shri N.K. Mehta, Panel Lawyer.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

13/11/2017

1. Heard.
2. The applicant has preferred this application under Section 439 of Cr.P.C. for grant of regular bail as he is in custody in connection with Crime No.102/16 registered at Police Station Lundra, District Surguja (CG) for the offences punishable under Sections 363, 366, 376 of the Indian Penal Code and Sections 5 (घ) & 6 of the Protection of Children from Sexual Offences Act, 2012.
3. According to the prosecution, the allegation against the applicant is that he eloped the prosecutrix on the false assurance of marrying her and committed sexual intercourse with her on number of occasions. Further, at the time of incident, the prosecutrix was below 18 years of age.

4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime. He further submits that the prosecutrix was lived with the applicant as his wife and this fact has been admitted by her in the document filed as Annexure A-2 with this application. A further glance of Annexure A-2 would reveal that the prosecutrix has not made any allegation against the applicant for commission of rape with her. He also submits that there is no conclusive proof regarding the age of the prosecutrix but for the school admission register. The prosecutrix herself has stated that she is 19 years of age. The applicant is in custody since 3.4.2017. In these circumstances, he prays that the applicant be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.
6. Considering the overall facts and circumstances of the case, this Court is of the view that it is not a case in which applicant should be kept in custody during the whole trial, therefore, without commenting on the merits of the case, this application is allowed. Applicant **Birbal** is directed to be released on regular bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount to the satisfaction of the trial Court concerned.
7. Certified copy as per rules.

Sd/-
(Pritinker Diwaker)
Judge

roshan