

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3610 of 2017

- Jaikumar Mahilange @ Salim S/o Jagrakhan, Aged About 20 Years R/o Bazar Atariya, P.S. Khairagarh, District Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Khairagarh, District Rajnandgaon, Chhattisgarh

-----Respondent

For Applicant : Shri Rakesh Pandey, Advocate.

For Respondent : Shri Lav Sharma, Panel Lawyer for the State.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

On 14.06.2017.

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.139/2016 registered at Police Station Khairagarh, Distt. Rajnandgaon for the offence punishable under Sections 363, 366, 376 of the Indian Penal Code and under Section 4 of Protection of Children from Sexual Offences Act, 2012.

2. As per the case of the prosecution, father of the prosecutrix lodged missing report on 04.4.2016 alleging that his daughter is missing since 25.3.2016. His daughter was recovered from the possession of the present applicant and his mother on 03.7.2016 from Nagpur.

3. Contention of learned counsel for the applicant is that on perusal of the case diary and statement of the prosecutrix itself shows that the prosecutrix had voluntarily gone along with the applicant without any pressure. So far as the age of the prosecutrix is concerned, he refers to the ossification test

conducted in the Government Medical College, Rajnandgaon, wherein age of the prosecutrix was found to be about 18 years, i.e. she was major. He further alleged that the prosecutrix herself having been examined before the trial Court, had not supported the prosecution story and turned hostile. Hence, the applicant may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail application on the ground that the prosecutrix was minor at the time of incident and during the course of cross examination, she accepted that she was subjected to sexual intercourse by the applicant while she was in his custody.

5. I have heard the counsel appearing for the parties.

6. Having considered the total facts and circumstances, particularly the statement of the prosecutrix recorded by the Court, where she turned hostile and taking note of her age as per the ossification test and also considering the period of custody undergone by the present applicant, 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 the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with two solvent sureties in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(P. Sam Koshy)
Vacation Judge