

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3619 of 2017

- Khilawan Bharti @ Bhaira S/o Late Kamandas Bharti, Aged About 22 Years R/o Tarenga, Police Station Bhatapara Gramin, District Baloda Bazar, Chhattisgarh.

---- Applicant (In Jail)

Versus

- State Of Chhattisgarh Through S.H.O. Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	:	Shri B.L. Deembra, Advocate
For Respondent	:	Shri Ravindra Agrawal, 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.31/16 registered at Police Station Simga, District Balodabazar Bhatapara (CG) for the offences punishable under Sections 363, 366, 376 of the Indian Penal Code and Section 4 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 pretext 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 applicant had performed marriage with the prosecutrix at Dongergarh temple and both were living as husband and wife. He also submits that there is no conclusive evidence regarding the age of the prosecutrix but for the school admission register wherein the age of the prosecutrix has been recorded on the basis of assumption and even in the Court this fact has been admitted by the parents of the prosecutrix. The applicant is still willing to keep the prosecutrix with him. The applicant is in custody since 3.4.2017 and the trial will take time to conclude. Therefore, 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 present is not a case in which applicant should be kept in custody during the whole trial, therefore, without further commenting on the merits of the case, this application is allowed. Applicant **Khilawan Bharti alias Bhaira** 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/-