

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3690 of 2017

- Manoj Dheewar S/o Sundar Lal, Aged About 20 Years, R/o Village - Rinwa, Police Station - Mandir Hasoud, District - Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through : The Station House Officer, Police Station – Arang, District - Raipur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Pawan Kesharwani, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

27-11-2017

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicant for regular bail. The applicant was arrested on 28-03-2017 in connection with Crime No.144/2017 registered at P.S. Arang, District - Raipur, C.G. for the offence under Section 363, 366, 376 of the IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. The prosecutrix in this case is not a minor. Regarding age of the prosecutrix the prosecution has relied only upon Dakhil Kharij Register of the school, which is not a conclusive evidence. The prosecutrix was a consenting party who had on her own accompanied the applicant and the sexual intercourse that was committed was consensual and thereafter the applicant and the prosecutrix both had married. The applicant is in jail since 28-03-2017. Hence, it is prayed that under these circumstances the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

and submission made. It is submitted that as per the proof of age in the case diary, the age of the prosecutrix on the date of incident was 16 years and 9 months, hence, any consent given by her is immaterial. Therefore, the applicant is not entitled for grant of bail.

4. Heard learned counsel for both the parties and perused the case diary.

5. Facts of the case are that the prosecutrix left the guardianship of her parents and went along with the applicant. On a complaint made by the father of the prosecutrix, police made the recovery of the prosecutrix from the custody of the applicant. Thereafter, on the statement given by the prosecutrix, FIR was lodged and charge sheet has been filed after completion of the investigation.

6. Considering the submissions made and the contents of the case diary and taking into consideration this fact that although the age of the prosecutrix is below 18 years is required to be proved by the prosecution, otherwise she has been consenting party throughout and both of them have married, as well as per the statement of the prosecutrix under Section 164 of the Cr.P.C., this Court is of the considered view that the application for grant of bail filed by the applicant deserves to be allowed.

7. Consequently, the application (MCRC No.3690/2017) filed under Section 439 of the Cr.P.C. by the applicant is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge