

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3743 of 2017

- Sadanand Kashyap S/o Shri Nirgun Kashyap, aged 25 years, Caste Bhatra, R/o Village Sonpur, Salegudapara, Police Station Karpavand, District Bastar, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Karpavand, District Bastar, Chhattisgarh.

---- Non-applicant

For Applicant – Ms. Rashi Tiwari and Mr. Devershi Thakur, Advocates.

For Non-applicant/State – Mr. Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

02-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.14/2017 on 04-04-2017 by Police Station Karpavand, District Bastar, C.G. for the offence under Section 363, 366, 376, 306 of the IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act'). After investigation police had filed the charge sheet which is pending before the Additional Sessions Judge (FTC)/Special Judge under the POCSO Act. Learned counsel for the applicant would submit that the evidence collected regarding age of the prosecutrix is doubtful. There is nothing in the postmortem report. There is no matter as the applicant instigated the prosecutrix/deceased for suicide. The applicant duly gave food and clothings and taken care as required to the prosecutrix/deceased who was residing along with him. There is no any material to implicate the applicant for the offence. Consequently, the instant MCRC may be allowed and the applicant may be enlarged on bail. It is further submitted that the FIR is lodged after two years and 3 days and no reason was shown in the FIR for the delay.
3. Per contra, learned counsel for the non-applicant/State would submit

that the reason for delay in lodging the FIR is well mentioned in the FIR as after the merg enquiry the FIR was lodged since during the merg enquiry evidence surfaced against the applicant. Statement of the mother recorded under Section 161 of the Cr.P.C. shows prima facie implication of the applicant for the offence; also there are possibility shown in the report of postmortem regarding sexual relation and looking to the evidence collected, age of the prosecutrix as her date of birth is 03-07-1998 as per the primary school certificate collected and the age of the prosecutrix was about 16 and ½ years at the time of incident, she was child under the definition of Section 2(1)(d) of the POCSO Act, prima facie, the evidence collected against the applicant is serious. Dakhil Kharij entries were also collected by the prosecution.

4. Perused the entire material.

5. On consideration of the entire facts and evidence collected, without commenting anything on its merit, looking to the evidence of serious nature collected regarding the offence committed, I am not inclined to grant bail to the applicant. Consequently, the instant MCRC is hereby dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge