

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3912 of 2017**

- Suraj S/o Shri Kam Prakash Kurrey Aged About 19 Years R/o Village Achholi, Police Station Palari, Civil And Revenue District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Palari, Civil And Revenue District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Non-applicant

For Applicant:

Mr. S.K. Guha, Advocate

For State:

Mr. Neeraj Jain, Government Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14.06.2017**

1. The present application has been filed under Section 439 of Cr.P.C. for grant of regular bail to the Applicant who is in jail since 08.04.2017 in connection with Crime No. 41/2016 registered at Police Station – Palari, District – Baloda Bazar (C.G.) for the offence punishable under Sections 363, 366, 376 of the I.P.C. and Section 4 of the POCSO Act, 2012.
2. The allegation as per the prosecution against the present Applicant is that the present Applicant is said to have on pretext of marriage eloped with the Prosecutrix who was just little over 17

years of age on the date of eloping and subsequently even knowing the fact that she was a minor, he has established physical relationship with the Prosecutrix and in the process the Prosecutrix also got conceived and delivered a child.

3. Learned Counsel for the Applicant submits that a plain reading of the statement of the Prosecutrix both under Section 161 as well as 164 would reveal that the Prosecutrix had a love affair with the present Applicant and had gone voluntarily with him. Thereafter they had performed marriage and were staying as husband and wife for a considerable period of time. The present Applicant had been taking care of the Prosecutrix very well. Therefore, the present Applicant may be released on bail
4. Learned State Counsel however opposes the bail application on the ground that the present Applicant though had knowledge that the Prosecutrix was a minor, yet he had physical relationship with the Prosecutrix for a considerable period of time, therefore, he should not be released on bail.
5. Considering the total facts and circumstances of the case particularly taking into consideration the statement of the Prosecutrix recorded under Section 164 of the Cr.P.C. and also considering the fact that on the date of eloping she was more than 17 years of age, this Court is of the opinion that present is a fit case for grant of bail to the Applicant.

6. Accordingly, the present bail application is allowed. It is directed that in case if the Applicant furnishes a personal bond for a sum of **Rs.25,000/- with one surety** of the like amount to the satisfaction of the concerned trial Court, then he shall be released on bail. The Applicant shall appear before the trial Court on each and every date given to him till disposal of the trial.

Sd/-
(P. Sam Koshy)
JUDGE