

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4437 of 2017**

Rohit Kumar Yadaw S/o Sandehi Ram Yadaw, Aged About 20 Years
R/o Tilaiha Para, Chouki Hardi Bazar, Police Station Kusmunda,
District Korba, Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through Officer In Charge, Out Post Hardi
Bazar, Police Station Kusmunda, District Korba, Chhattisgarh.

---- Respondent

For the Petitioner : Shri Basant Dewangan, Advocate.

For the Respondent/State : Shri O.P. Sahu, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.10.2017**

1. Heard.
2. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.68 of 2016, registered at Police Station – Out post Hardi Bazar, P.S. Kusmunda, District – Korba, Chhattisgarh for the offence punishable under Sections 363, 366A and 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
3. Learned counsel for the applicant submits that the applicant is in jail since 17.11.2016 and the applicant has been falsely implicated in this case. The prosecutrix in this case had not been minor on the date of incident and that the applicant and the prosecutrix had performed marriage in Mahamaya

Temple at Ratanpur and were residing as husband and wife in Allahabad and the applicant was arrested from Allahabad and brought back to Korba and is being prosecuted. It is also submitted that the trial has commenced and the prosecutrix and her mother have been examined who have not supported the case of the prosecution. Hence, for these reasons, the applicant is entitled for grant of bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the documentary evidence present in the case shows that the prosecutrix was a minor on the date of incident and as such, the offence of POCSO Act has been committed in this case, which is a grievous offence and the applicant is not entitled for grant of bail.

5. Heard counsel for both the parties and perused the case diary.

6. As per the material in the case diary, the applicant and the prosecutrix had physical relationship since three years prior to the date of incident and on 30.4.2016 the applicant enticed away the prosecutrix from her legal guardianship and performed marriage with her in Mahamaya Temple at Ratanpur. Thereafter, he kept the prosecutrix in Bilaspur and then in Allahabad having physical relationship with her, on account of which the prosecutrix became pregnant. Police recovered the prosecutrix from the possession of the applicant from Allahabad, on the basis of FIR lodged by Shakila Bai, mother of the prosecutrix and after investigation of the case the charge-sheet has been filed.

7. Considering the contents of the case diary, the submissions made by the parties and perusing the certified copies of the statements of the prosecutrix and her mother before the Court, I am of the considered view that in this case the applicant deserve to be enlarged on bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge