

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4433 of 2017**

Komesh Dheever S/o Shri Narsingh Dheever, Aged About 20 Years
R/o Village Kurud, Police Station Mandir Hasoud, Raipur, District
(Revenue & Civil) Raipur, Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Mandir Hasoud, District Raipur, Chhattisgarh.

---- Respondent

For the Petitioner : Shri Yogesh Pandey, Advocate.

For the Respondent/State : Shri Anant Bajpai, P.L.

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.124 of 2017, registered at Police Station – Mandir Hasoud, District – Raipur, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code, Section 3 (1)(8) of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(5)(1) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. As per the statement given by the prosecutrix under Sections 161 and 164 of the Cr.P.C., no physical relations took place

between the applicant and the prosecutrix, hence, at the most, if any offence is made out, that is only offence under Section 363 of the IPC for which the applicant should not be kept in detention for the period of whole trial. Hence, it is prayed that the applicant may be benefited with 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 FSL report received is positive, showing presence of sperm and spermatozoa on the vaginal slide pertaining to the prosecutrix and on the clothes seized from the prosecutrix. Hence, there is a strong circumstantial evidence, because of which 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 contents of the case diary, the prosecutrix went missing on 17.4.2017. A missing report was lodged by her father Ganesh Ram on 18.4.2017. The prosecutrix was recovered on 21.4.2017 from the possession of the applicant. Thereafter, the case has been investigated and the charge-sheet has been filed. Looking to the statement given by the prosecutrix under Sections 161 and 164 of the Cr.P.C., I am of the considered view that in this case the applicant deserve to be enlarged on bail.

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

8. 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