

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4881 of 2017**

- Padmraj Sahu @ Rakesh Sahu, S/o Hulasiram @ Tulsiram Sahu, Aged About 30 Years, R/o Village Sighanpuri, Post Lagra, Police Station Mungeli, District Mungeli, Chhattisgarh, Present Address- Near Subhash School Habibganj Bhopal, Police Station Habibganj, Bhopal (M.P.)

---- Applicant**Versus**

- State Of Chhattisgarh Through Its Police Station Koni, Civil & Revenue District Raipur, Chhattisgarh.

---- Respondent

For Applicant : Shri Ravi Maheshwari, Advocate.
 For Non-applicant/State : Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****22.08.2017**

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.202/2014 on 15/06/2017 by Police Station Koni, Distt. Bilaspur, (C.G.) for the offence under Section 363, 366 & 376 of IPC & under Section 4 of Protection of Children from Sexual Offences Act, 2012 (For short "POCSCO Act").

3. Learned counsel for the applicant submits that after investigation police had filed charge-sheet which is pending before the Additional Session Judge Bilaspur (C.G.), as special Session

Trial No. 55/2017. Learned Counsel for the applicant would submit that prosecutrix was living as a wife of the applicant, matter is of a consent, hence, the applicant may be enlarged on bail.

4. Per Contra, Learned counsel for the respondent/State opposes the argument advanced on behalf of the applicant, though considered that there is no criminal antecedent reported against the applicant.

5. Peruse the entire material.

6. The prosecutrix was a child under the definition of Section 2(1)d of the Act of POCSO Act at the time of incident. The Police had collected material regarding as date of birth of the prosecutrix. As per said material, on the date of incident the prosecutrix was minor. On consideration of the entire material collected against the applicant, I am of the view that this is not a fit case where the presumption regarding consent may be drawn under the provisions of law in all respect of crime registered against the applicant.

7. Consequently, the instant MCRC is hereby dismissed.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**