

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 4856 OF 2017

Dinesh Kumar S/o Kishun Nishad, aged about 23 years, R/o village Pasid, Police Station Tumgaon, Distt. Mahasamund (CG).

... Applicant

Versus

State of Chhattisgarh, through Police Station Palari, District Baloda Bazar-Bhatapara (CG).

... Respondent

For Applicant	:	Shri Pushpendra Patel, Advocate.
For Respondent-State	:	Shri Gary Mukhopadhyay, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/11/2017

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 03.04.2017 in connection with Crime No. 110 of 2017 registered at Police Station Palari, Distt. Baloda Bazar, for the offence punishable under Sections 363,366, 376 of IPC and Section 4 of POCSO Act.
2. As per prosecution case, the appellant is said to have on false pretext of marriage has taken the prosecutrix from Fulwari, Distt. Baloda Bazar to Raipur and is said to have kept her in his custody for a period of about one week where he has subjected the prosecutrix to sexual intercourse.
3. Learned Counsel for the applicant submits that it is a case where the prosecutrix is aged around more than 17 and ½ years and that her statement recorded by itself evidently shows that she had voluntarily gone along with the appellant and therefore no element of any force applied by the present applicant for taking the prosecutrix. He further

submits that the applicant is in custody since 03.04.2017 and therefore he may be enlarged on bail.

4. Opposing the bail application, learned Counsel for the State submits that under any circumstances since the prosecutrix was below 18 years of age, she has to be treated as minor, and therefore the applicant may not be enlarged on bail.
5. Without commenting on merits, considering the totality of the facts and circumstances of the case particularly taking note of the age of the prosecutrix so also the age of the applicant, in addition taking into consideration the statement of prosecutrix wherein she has admitted that she has voluntarily gone along with the applicant and also the fact that the applicant is in detention since 03.04.2017, this Court is of the opinion that the present is a fit case where the Applicant can be enlarged on bail.
6. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed.

Sd/-
(P. Sam Koshy)
Judge