

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**(Single Bench : Hon'ble Shri Justice Ram Prasanna Sharma)****MCRC No. 5145 of 2017**

- Smt. Bhagmaniya W/o Shri Janki Yadav Aged About 63 Years R/o Chhermunda, Police Station Dharpur, District Surguja Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer Police Station Dhaurpur, Distt. Surguja (Chhattisgarh)

---- Respondent

For applicant : Mr. Neeraj Mehta, Advocate.
 For respondent/State. : Mr. Luv Sharma, Panel Lawyer

Oral order

(Passed on 27-11-2017)

1. The applicant has preferred this application under Section 439 of the Cr.P.C. for grant of regular bail, who has been arrested on 19-6-2017 in connection with Crime No. 14 of 2017 registered at Police Station Dhaurpur, District Surguja (CG), for the offence punishable under Sections 376 (2), 313, 506 of IPC and Sections 5 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. As per prosecution case, date of birth of prosecutrix is 25-9-2002 and date of incident is 16-8-2016 and on the date of incident, prosecutrix was minor aged less than 14 years. It is alleged that co-accused Vinod Yadav committed sexual intercourse with her repeatedly and she became pregnant and after pregnancy, accused/applicant caused miscarriage of prosecutrix without her consent as she was minor and she was not able to give consent legally. The present applicant charged for offence under Section 313 of the IPC.

3. Learned counsel appearing for the applicants submits that the evidence collected by the prosecution against the present applicant is shaky in nature and no offence is made out against the applicant. He further submits that the applicant is a woman aged about 63 years and is in custody since 19-6-2017, therefore she may be released on bail.
4. On the other hand, learned State counsel opposing the prayer for grant of bail submits that there is prima facie evidence against the applicant, therefore, the applicant is not entitled to be released on bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. Looking to the fact that prosecutrix is a minor who is legally not competent to give consent, there is prima facie evidence against the applicant for causing miscarriage and the same was not caused in good faith for the purpose of saving the life of the prosecutrix and the ground of defence shall be decided by the trial Court after hearing the parties, this court is of the view that the applicant is not entitled to be released on bail at this stage.
7. Accordingly, the application of the applicant for grant of bail is rejected.

Sd/-

(Ram Prasanna Sharma)
Judge

Raju