

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. No. 4908 of 2017

Shyamu Kumbhkar S/o Narmada, aged about 27 years, R/o Nagar Panchayat, Pipariya, Police Station Pipariya, Tehsil Kawardha, Civil and Revenue District Kabirdham (C.G.).

--- Applicant

Versus

State Of Chhattisgarh Through S.H.O. Police Station Pipariya, District Kabirdham (C.G.).

---Non-applicant

For Applicant	:	Shri Dharmesh Shrivastava, Advocate.
For Respondent/State	:	Shri Gary Mukhopadhyay, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/11/2017

1. The applicant has preferred this bail application under Section 439 Cr.P.C. in connection with Crime No.96/2017 registered at Police Station Pipariya, District Kabirdham (C.G.) for the offence punishable under Section 363 and 366 (A) of I.P.C. and Section 3 & 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Present applicant is in jail since 09/06/2017.
3. As per the prosecution case, the present applicant is said to have kidnapped a minor girl and her confinement in Raipur and subsequently the complaint was made by the father of the complainant.
4. The counsel for the applicant submits that persual of record would show, that none of the ingredients are available in the instant case for making out a case under Sections either 363 or 366(A). He submits, that it is a case where there is no allegation against the present applicant of putting any sort of pressure for taking the victim along with him. He further submits, that infact the present applicant had taken the victim along with him by only making a telephone call and she immediately went to stay

along with the present applicant and thus in the given facts of the case, he prayed for the applicant to be released on bail.

5. The State counsel however opposing the appeal submits, that as per the records, the victim in the instant case was aged around 15 years and that she was a minor and the fact that she was a minor itself is sufficient for rejection of the appeal, as the present applicant was aged around 27 years.

6. Having heard the contentions put forth on either side and on perusal of record, undisputedly, it was only on a telephone call made by the present applicant that the victim in the instant case left her home and went to stay along with the applicant at Raipur. Further perusal of the record also show, that the applicant had thereafter left the victim at his house at Raipur and went to different places and was not available at Raipur along with the victim during the intervening period till she was recovered by the Police Authorities.

7. Taking into consideration the entire facts and circumstances of the case, particularly, the fact that the victim in the instant case was aged more than 17 years and 11 months and as such was short of 18 years by 1 month, this court is of the opinion that, prima-facie, a strong case has been made out for grant of bail to the present applicant.

8. Accordingly, the application for grant of bail is allowed. It is ordered that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall thereafter appear before the Trial Court on each and every date given by the said court.

**Sd/-
(P. Sam Koshy)
Judge**