

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5191 of 2017

Kamlesh Kashyap S/o Shri Mahabali Kashyap Aged About 24 Years R/o Village Donga Kohraud, Police Station- Pamgarh, Civil & Revenue District Janjgir- Champa, Chhattisgarh, At Present Shivlik City, Sector- 26, Joshan-Kharad, Civil & Revenue District Mohali, Punjab.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Koni, Civil & Revenue District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Parasmani Shriwas, Advocate

For Respondent : Mr. Anil S Pandey, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

22/11/2017

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 153/2017 registered at Police Station- Koni, District Bilaspur (C.G.) for the offence punishable under Sections 363,366,376(2)(N) of the IPC and Section 5 (N) of the Protection of Children from Sexual Offences Act, 2012.
2. As per the prosecution case, the applicant enticed the minor prosecutrix, whose date of birth is 07.06.2001 and the date of incident i.e. 14.01.2017. She was below 16 years of age. It is alleged that the applicant committed sexual intercourse with her and committed Penetrative Sexual on a child.
3. Counsel for the applicant submits that it is a case of consent and the mother and father of the prosecutrix are not supporting the case of the prosecution, therefore, he may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail and submits there is prima-facie evidence against the applicant therefore, the applicant should not be entitled for grant of bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Considering the fact that the prosecutrix was a child below 16 years of age on the date of incident as defined in Protection of Children from Sexual Offences Act, 2012 and as per section 375(6) of the IPC intercourse with a girl below sixteen years, with or without her consent, is rape. Therefore, there is prima-facie evidence against the applicant for commission of offence, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Ram Prasanna Sharma)
Judge

Santosh