

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**(Single Bench : Hon'ble Shri Justice Ram Prasanna Sharma)****M.Cr.C.No. 5119 of 2017**

- Umesh Nand S/o Shri Mangaldas Nand, Aged About 24 Years R/o Village Manikpur Chote, P. S. Saria, District Raipur Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through Station House Officer Police Station Saria, Distt. Raigarh (Chhattisgarh)

---- Respondent

For applicant	:	Mr. Abhishek Saraf, Advocate.
For respondent/State.	:	Mr. Anil S. Pandey, Govt. Advocate.

Oral order
(Passed on 20-11-2017)

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 25-5-2017 in connection with Crime No. 64 of 2017 registered at Police Station Saria, District Raigarh (CG), for the offence punishable under Section 376 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. The case of the prosecution, in brief, is that the date of birth of prosecutrix is 2-6-1995 and the accused/applicant committed sexual intercourse with her from October 2010 upto year 2017 and thereby he committed the aforesaid offence.
3. Learned counsel appearing for the applicant submits that the applicant has been falsely implicated and it is a case of consent and no offence is made out against the present applicant. He further submits that the applicant is in custody since 25-5-2017, therefore

he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. From the first information report and other relevant documents, it appears that in the month of October, 2010, the prosecutrix was below 16 years of age and as per Section 375 (6) of the IPC, a man is said to have committed rape and if he commits sexual intercourse with a woman with or without her consent when she is under 16 years of age, there is sufficient evidence, *prima facie*, for commission of offence of rape. The case will be tried by the special Court and it is expected that the trial will be concluded soon.
7. Looking to the factual matrix and legal aspect of the matter, this court is of the view that *prima facie*, the applicant is not entitled to be released on bail.
8. Accordingly, the application of the applicant for grant of bail is rejected.

Sd/-

(Ram Prasanna Sharma)
Judge

Raju