

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5148 of 2017

Dilip Kumar, Aged about 28 years, S/o. Panchuram Nirmalkar, R/o. Village Dhurrabandha, P.S. Bhatapara (Gramin) District Balodabazar-Bhatapara (C.G.)

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Bhatapara (Gramin) District Baloda Bazar, Bhatapara (C.G.)

---- Respondent

For Applicant : Mr. B.L. Dembra, Advocate

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

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

20/11/2017

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. 34/2017 registered at Police Station- Bhatapara (Gramin) District Balodabazar-Bhatapara (C.G.) for the offence punishable under Sections 363,366,376 of the IPC and Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.
2. As per the prosecution case, the applicant kidnapped the prosecutrix from her lawful guardianship and committed forcible intercourse with her. As the prosecutrix is child, charges under Protection of Children from Sexual Offences Act was also made against him.
3. Counsel for the applicant submits that the material witnesses have turned hostile before the trial Court and the applicant is in

jail since 31.03.2017, therefore, it is a fit case to release the applicant on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. From the FIR and the other material placed in the case diary, it appears that the date of birth of the prosecutrix is 08.10.2000 and the offence is committed on 23.01.2017, on the date of offence the prosecutrix was minor and in custody of her guardian, therefore, there is prima-facie evidence of kidnapping and commission of rape. If material witnesses have examined before the trial Court, the trial may be concluded soon. If the trial is not concluded within four months the applicant shall at liability to file application for bail. At this stage it is not a fit case to enlarge 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

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