

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 5820 of 2017**

Vikky @ Vijendra Khusro S/o Baldau Ram, aged about 26 years,
R/o Mandalpara Beheramuda (Wrongly mentioned Bahremuda),
Chowki Belgahna, Police Station Kota, District Bilaspur,
Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police Station
Kota, District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:	Shri P. P. Sahu, Advocate
For Respondent/State	:	Shri D. R. Minj, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27/11/2017**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who has been arrested in connection with Crime No. 113/2017 registered at Police Station Kota, District Bilaspur (CG) for the offence punishable under Sections 363, 366, 376 of IPC and Sections 4 of Protection of Children from Sexual Offences Act. The applicant is in jail since 04.07.2017.

2. The allegation, as per the prosecution, against the present applicant is that he knowingly that the prosecutrix in the instant case was a minor girl is said to have abducted and taken her to different places and maintained physical relationship with her on many occasions.

3. Counsel for the applicant submits that a plain reading of the 164

CrPC statement of the prosecutrix itself would show that the applicant had not in any manner used coercion or force while taking the prosecutrix. On the contrary, it is reflected that the prosecutrix herself abandoned her house and went to Shahdol where she stayed with some lady for 2-3 days. Thereafter, the prosecutrix phoned the applicant to come to Shahdol, from where they had gone to different places. In the given facts, counsel for the applicant submits that the offence under Sections 363 & 366 or even the offence under Section 376 IPC would not be made out and the applicant deserves to be released on bail.

4. State counsel, however, opposing the bail application submits that the prosecutrix in the instant case was a minor girl aged less than 18 years and therefore, even it be a case of consensual relationship, it is of no consequence and prayed for rejection of the bail application.

5. Having considered the contentions put forth on either side and on perusal of the record it is reflected that the age of prosecutrix at the relevant time was about 17 years 10 months. The prosecutrix, in her 164 CrPC statement has categorically stated that she had voluntarily left her parental home and gone to Shahdol and stayed there with some lady for a couple of days. During this period, the applicant's role is not reflected. Subsequently, the prosecutrix phoned the applicant to come to Shahdol from where they had gone to Jammu and thereafter to different parts of the county. In between, it is said that the applicant had married her and they were staying as husband and wife.

6. Given the factual matrix of the case as is reflected from the preceding paragraph, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

7. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
JUDGE