

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 6249 of 2017**

- Prem Singh Rathiya S/o Rengta Rathiya Aged About 23 Years R/o Village Nawapara, Kachkoba, P.S. Tamnar, District Raigarh, Civil And Revenue District Raigarh Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through Police Station Tamnar, District Raigarh Chhattisgarh

**---- Respondent**

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| For Applicant        | : | Mr. Ashutosh Mishra, Advocate. |
| For Respondent/State | : | Mr. UKS Chandel, Panel Lawyer. |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**04/12/2017**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No. 25/2017, registered at Police Station- Tamnar, District – Raigarh(C.G.) for the offence punishable under Sections 376 of the Indian Penal Code (for short 'IPC') and 4 & 6 fo Prevention of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. The prosecutrix in this case is not a minor. Applicant and the prosecutrix had a love affair between them and they have married in a temple and were living as husband and wife, for which they have also executed one Ikrarnama. The original copy of *Ikrarnama* is produced for the perusal of this

Court; applicant is in jail since 13.9.2017, hence, it is prayed that applicant be enlarged on regular bail.

3. Learned counsel for the State opposes and submits that the case against the applicant is this, that the prosecutrix had been a minor on the date of incident as per the proof from the school records and also according to the statement given by her parents, hence, any consent about her submissions to the applicant for physical relationship itself an amount of offence of rape, for this reason, the applicant is not entitled for grant of regular bail.
4. Heard both the parties and perused the case diary.
5. As per the FIR, prosecutrix was a minor on the date of incident i.e. 1.1.12017 when applicant by force subjected the prosecutrix to sexual intercourse. On a complaint given on 6.2.2017 offence has been registered against the applicant.
6. Considering the submissions made and the contents of the case diary, the copy of said *Ikrarnama* is a part of the case diary, in which the prosecutrix herself has made a statement that she is wife of the applicant. Taking into consideration this development in the circumstances, I am of this opinion that this is fit case where the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on furnishing 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, for his appearance as and when directed.

Certified copy as per rules.

Sd/-  
(Rajendra Chandra Singh Samant)  
Judge

Nisha