

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6779 of 2017**

Roman Kumar S/o Shri Chhotu Ram Sahu, Aged About 25 Years R/o Junwani Semar, Police Station Bhakhara, Distt. Dhamtari Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Rakhi, Distt. Raipur Chhattisgarh.

---- Respondent

For the Applicant : Shri P.K. Patel, Advocate.
For the Respondent/State : Shri Sumit Jhanwar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.12.2017**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No. 39 of 2017, registered at Police Station Rakhi, District Raipur, Chhattisgarh for the offences punishable under Sections 363, 366 and 376 (2) (n) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 01.04.2017 and the applicant has been falsely implicated in this case. It is also submitted that the prosecutrix had been major on the date of incident and she had been a consenting party. There is no allegation in the case against the applicant that the applicant had physical relationship with

the prosecutrix without her consent and willingness and the trial of the case is likely to take some time for its final disposal. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the age of the prosecutrix on the date of incident was 17 years as per the school register, hence, any consent of prosecutrix in such case is immaterial. On the basis of this reason, he is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. The facts of the case are that the prosecutrix went missing on 17.3.2017 of which a report was lodged by her father. The prosecutrix was recovered from the custody of applicant on 31.3.2017. Thereafter, she gave the statement before the police that the applicant had allured her with a promise to marry her and took her to village Sehradabri keeping in his house and thereby continuously had physical relationship with her till 31.3.2017. On the basis of this statement, the case has been registered against the applicant.

6. Considering the submissions and the contents of the case-diary and that the age proof of the prosecutrix relied upon by the prosecution is the school register which is being challenged by the applicant's side, as also taking into consideration the fact that the applicant is a local resident of P.S. Bhakhara, District Dhamtari, there shall be no difficulty in his availability during trial and the trial of the case is likely to take some time for its final

disposal, I am of the considered opinion that the applicant deserves to be released on bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on 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 as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge