

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7222 of 2017**

Devichand Chandrakar S/o Luman Chandrakar Aged About 20 Years
R/o Sukhatal Police Chowki Khandsara, Police Station & District
Bemetara Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Khandsara District Bemetara Chhattisgarh.

---- Respondent

For the Applicant : Shri Aman Kesharwani, Advocate.

For the Respondent/State : Shri Wasim Miyan, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****12.12.2017**

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. 499 of 2017, registered at Police Station Khandsara, District Bemetara, Chhattisgarh for the offence punishable under Sections 363, 366(A) and 376 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 25.8.2017 and he has been falsely implicated in this case. The applicant and the prosecutrix had a love affair and they got married. The prosecutrix had willingly accompanied the applicant and stayed with him in Lucknow for sometime and she submitted to physical relationship willingly. False FIR has been lodged by the father of the prosecutrix because of which

the applicant has been arrested. After completion of investigation, the charge-sheet has been filed. Hence, it is prayed that the applicant be granted bail. In support of his submissions, learned counsel for the applicant placed reliance on the judgments of this High Court in the case of **Kamta Prasad vs. State of Chhattisgarh** reported in **2016(1)C.G.L.J. 442** and **Hatim Khan @ Bodu vs. State of Chhattisgarh** reported in **2016(2) C.G.L.J. 548** in which the bail was granted in the similar situations.

4. 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 had been below 18 years, hence, it is clearly a case of rape as well as the offence under the provisions of POCSO Act. Hence, he is not entitled for grant of bail.

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

6. The case against the applicant is that the prosecutrix left with him on 16.8.2017 and both of them went to Lucknow where they stayed for almost a week in the house of a relative. As stated by the prosecutrix in her statement under Section 164 of the Cr.P.C. that both of them married in a temple and thereafter started living as husband and wife. The parents of the applicant and the prosecutrix came to Lucknow and brought them back and thereafter, the FIR was lodged.

7. Considering all the submissions and the facts of the case and looking to the statement of the prosecutrix given under Section 164 of the Cr.P.C.,

I am of the considered view that this is a fit case where the applicant is entitled to be released on regular bail.

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

9. 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