

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 238 of 2018**

Rakesh Patel R/o Shri Itwari Patel, aged about 18 years, resident of ward no.04, Tilda Newra, District – Raipur (CG)

**---- Applicant****Versus**

State of Chhattisgarh through Police Station Newra-Tilda, District - Raipur (CG)

**---- Respondent**


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| For Applicant        | : | Shri Sunil Tripathi, Advocate |
| For Respondent/State | : | Shri Lav Sharma P.L.          |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****01/05/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 30.09.2017 in connection with Crime No. 187/2017 registered at Police Station- Newra – Tilda, District Raipur (CG) for the offence punishable under Sections 363, 366, 376, 34 of IPC and Sections 4 & 6 of Protection of Children from Sexual Offences Act, 2012.

2. Contention of the counsel for the applicant is that the prosecutrix has been examined before the the Court below and she has not supported the case of the prosecution and turned hostile. Therefore, prays for grant of bail to the applicant.

3. State counsel, however, opposing the bail application submits that the prosecutrix in the instant case is a minor and therefore even if it is a case of consent, the same is of no consequence and prays for rejection of the bail application.

4. Having heard the contentions put forth on either side what prima

facie reflects is that the present applicant himself is a 18 year old boy and the prosecutrix is over 16 years and that the prosecutrix has not supported the case of the prosecution and turned hostile. Only in cross-examination the prosecutrix has accepted of there being physical relationship between her and the applicant. However, the conduct of the prosecutrix clearly reflects that there was at no point of time any coercion, force or pressure put by the applicant for physical relationship. Given the facts, this Court is of the opinion that prima facie, a strong case for grant of bail has been made out.

5. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will 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**