

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 224 of 2018**

Dharamraj @ Raja Satanami S/o. Shiv Satanami, Aged about 28 years, R/o. Domanpur, Police Station Pandariya, Civil and Revenue District Kabirdham, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh, Through Police Station Pandariya, Civil & Revenue District Kabirdham, Chhattisgarh.

---- Non-applicant

For Applicant	:	Mr. Dinesh Tiwari, Advocate
For State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****07/03/2018**

1. This is an application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No. 42/2017 registered at Police Station Pandariya, District Kabirdham, Chhattisgarh for the offence punishable under Sections 363, 376 of Indian Penal Code and Section 4 of POCSO Act.
2. The present applicant is in jail since 06.12.2017 in connection with the aforesaid Crime number.
3. The allegation against the present applicant as per the prosecution case is that the present applicant is said to have ravished a minor girl, aged around 17 years and that in due course of time the prosecutrix is also said to have got conceived and later given birth to a child born from the present applicant, thereafter a complaint was lodged at the behest of the Chhattisgarh State Child Rights Protection Commission.

4. The contention of the counsel for the applicant is that the present applicant and the prosecutrix were having an affair for long and that he also wanted to marry the prosecutrix, but meanwhile on the complaint lodged by the commission, he has been arrested and given the applicant a chance if he would marry with the prosecutrix.
5. Counsel for the applicant further referred to the statement of the prosecutrix recorded under Section 164, where she has emphatically stated that it was she who had called upon the present applicant to the field and where they have had the physical relationship which clearly reflects the consensual relationship between the two. He further submits that age of the prosecutrix also was on the border line and therefore also it cannot be presumed that the prosecutrix was a minor and thus prayed for the applicant to be released on bail.
6. The State counsel however opposing the bail application submits that the present applicant after having maintained physical relationship with the prosecutrix on her conceiving is said to have deserted her and therefore the conduct of the applicant does not deserve bail. She further submits that the prosecutrix also is a minor girl aged around 17 years, thus even if there was a consensual relationship it is no relevance.
7. Taking the entire facts and circumstances of the case also the submissions put forth by the counsel for the applicant and also taking note of the statement of the prosecutrix in her 164 statement and also keeping in view the age of the prosecutrix, which was over 17 years of age i.e. a border line from attaining the age of majority, this Court is of the opinion that prima facie a fit case has been made

out for grant of bail to the applicant. Accordingly, the present application for grant of bail is allowed.

8. 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 Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge

Ved