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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 86 of 2018**

Rajendra Vaishnav, S/o. Kheludas Vaishnav, Aged About 25 Years, R/o. Village Khairjhitti, Police Station -Than Khamhariya, District- Bemetara Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : S H O, Police Station- Bemetara, District Bemetara, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Vaibhav A. Goverdhan, Advocate
For Respondent/State	: Mr. Ashok Swarnakar, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**09/03/2018**

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.77/2017, registered at Police Station – Bemetara, District – Bemetara (C.G.) for the offence punishable under Section 363, 366, 376 of Indian Penal Code and Section 5 (३), 6 of the Protection of Children from Sexual Offences Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The age of the prosecutrix on the date of the incident was above 18 years. Reliance of

prosecution is only on the entry in the school register, which is not believable. It is also submitted that applicant and the prosecutrix had love affair and prosecutrix had on her own free will came to the house of the applicant and thereafter, when the parents of the prosecutrix refused to keep the prosecutrix, marriage has been performed by the applicant with the prosecutrix on 17.11.2017, hence under these circumstances, no case is made out against this applicant. Therefore, it is prayed that the applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that according to the entry in the school register on the date of incident, the age of the prosecutrix was below 18 years, hence, any willingness and consent given by the prosecutrix is immaterial, therefore, no case is made out in favour of the applicant for grant bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the prosecution case, the applicant abducted the minor prosecutrix on 06.02.2017 and thereafter he established physical relation with her. On FIR lodged by the father of the prosecutrix, the prosecutrix was recovered on 26.11.2017 from the custody of this applicant. Subsequent to that on the basis of the statement given by the prosecutrix, case has been registered against this applicant.
6. Considered the submissions made and the contents of the case diary. Considering on the material present in the case diary as also considering the statement of the prosecutrix recorded under Section 164 of Cr.P.C., the arguments submitted on behalf of the applicant

finds some support from this statement, hence, considering the case against this applicant in totality, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge