

HIGH COURT OF CHHATTISGARH AT BILASPUR
M.Cr.C. No.312 of 2018

Permashwer Rajput S/o Shri Bhaw Singh Rajput, aged 22 years, R/o Sildha, P.S.Pathriya, Civil and Revenue District Mungeli (C.G.).

---Applicant

Versus

State of Chhattisgarh, Through - The S.H.O. P.S. Supela, District Durg (C.G.).

---Respondent

For applicant	:	Shri Amit Kumar Chaki, Advocate.
For resp./State	:	Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/04/2018

1. The applicant has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No.1132/2016 registered at Police Station Supela, District Durg (C.G.) for the offence punishable under Sections 363, 366 & 376 of IPC and 5 (L) & 6 of POCSO Act.
2. Present applicant is in jail since 17/01/2017.
3. The allegation against the present applicant as per the prosecution case is that, the present applicant knowing the fact that the prosecutrix was a minor, he is said to have taken the prosecutrix to different places and there he is said to have on the pretext of marriage had a physical relationship with her. Subsequently, an F.I.R. in this regard was lodged on 08/12/2016 and the present applicant has been arrested on 17/01/2017.
4. The counsel for the applicant submits that plain reading of the statements of the prosecutrix recorded under Section 161 and 164 of Cr.P.C.

itself would reveal that there are material contradiction in her statements. Moreover, it would also reveal that the conduct of the prosecutrix itself would show that she had voluntarily gone along with the present applicant to different places and with consent, they had a physical relationship and thus prayed for releasing the applicant on bail.

5. The State counsel however opposing the bail application submits that, the consent of the prosecutrix is immaterial for the reason that the prosecutrix was a minor and thus prayed for rejection of bail application.

6. Having heard the contentions put forth on either side and on perusal of record particularly taking note of the report of the Radiologist who have on examination the prosecutrix has given a report of her being aged between 17-18 years and also considering the conflicting averments made by the prosecutrix in her statement under Section 161 of Cr.P.C. when compared to the statement under Section 164 of Cr.P.C. this Court is of the opinion that, prima-facie, a strong case has been made out for grant of bail to the present applicant.

7. Accordingly, the application for grant of bail is allowed. It is ordered that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall thereafter appear before the Trial Court on each and every date given by the said court.

Sd/-

(P. Sam Koshy)
JUDGE