

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 313 of 2018**

Umesh Kumar S/o Shri Dasaru Ram, aged 32 years, R/o Gram
Awaspara-kui, Thana Kukdur, District Kabirdham (CG)

---- Applicant**Versus**

State of Chhattisgarh through Police Station Kukdur, District
Kabirdham (CG)

---- Respondent

For Applicant	:	Shri Anurag Dayal Shrivastava, Advocate
For Respondent/State	:	Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/03/2018**

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 28.08.2017 in connection with Crime No. 74/2017 registered at Police Station Kukdur, District Kabirdham (CG) for the offence punishable under Sections 363, 366, 376 of IPC and Sections 3, 4, & 6 of Protection of Children from Sexual Offence Act, 2012.

2. The allegation against the present applicant is that on the pretext of marriage he is said to have had physical relationship with the prosecutrix in spite of knowing well that the prosecutrix was a minor.

3. Counsel for the applicant submits that a plain reading of the 164 CrPC statement of the prosecutrix would reveal that she was a consenting party to the relationship. He submits that the prosecutrix had willingly travelled with the applicant to different places and stayed with him for a period of about three weeks before she was recovered by the Police. He submits that considering the fact that the prosecutrix on the date of incident

was aged around 17 years 10 months i.e. too short a period was left for attaining the age of majority, the applicant may be released on bail.

4. State counsel, however, opposing the bail application submits that the prosecutrix in the instant case was a minor and therefore, even if she had given consent is of no consequence and prayed for rejection of the appeal.

5. Having heard the rival contentions put forth on either side and keeping in view the statement of the prosecutrix under Section 164 CrPC, the age of the prosecutrix being 17 years 10 months and the fact that she had voluntarily gone with the applicant to different places, this Court is of the opinion that prima faice, a strong case for grant of bail has been made out.

6. 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**