

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 530 of 2018**

Prajesh Masih, S/o. Penkas Masih, Aged About 24 Years, R/o. Village Ganeshpur, P. S. Simga, District -Balodabazar-Bhatapara Chhattisgarh, Civil And Revenue District Balodabazar Bhatapara Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station -Simga, District -Balodabazar Bhatapara Chhattisgarh,

---- Respondent

For Applicant	: Ms. Supriya Upasane, Advocate
For State/respondent	: Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****21/03/2018**

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.67/2016, registered at Police Station – Simga, District – Balodabazar – Bhatapara (C.G.), for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 16 & 17 of 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. Applicant and the prosecutrix had love affair and the age of the prosecutrix on the date

of incident had been more than 18 years, hence, she was capable for giving consent for physical relation. No case is made out against this applicant on the basis of the material present in the case. Applicant is in jail since 24.12.2017. Therefore, prayed that the applicant may be enlarged on regular 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 on the date of incident the age of the prosecutrix was below 18 years, hence, any consent given by her is immaterial, hence, no case is made out for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, on 20.03.2016 minor prosecutrix went missing. Missing report was lodged on 21.03.2016 in the concerned police station. The prosecutrix was recovered on 30.08.2016, thereafter, she stated that the applicant on the pretext of marrying her had taken her to Korba and Rajnandgaon, where, during the stay, the applicant established physical relation with the minor prosecutrix on number of occasions. Subsequently, the applicant refused to marry the prosecutrix, she has made the statement against him on that basis, offences have been registered against this applicant.
6. Considered on the submissions made and the contents of the case diary. Considering the material present in the case diary against this applicant, the age of the prosecutrix is debatable which shall be determined by the trial Court, for the present, 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

Balram