

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No.769 of 2018**

Vishal Sona @ Bhakto Sona, son of Benu Sona, aged about 19 years, resident of near Ram Mandir, Trimurti Nagar, Raipur, District Raipur, Chhattisgarh

---- Applicant**versus**

State of Chhattisgarh through Station House Officer, Police Station Devendra Nagar, Raipur, District Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Pradeep Singh Rathore, Advocate
For Respondent/State	:	Shri U.K.S. Chandel, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****2.4.2018**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the Applicant who has been arrested in connection with Crime No.104 of 2017 registered at Police Station Devendra Nagar, Raipur for offence punishable under Sections 363, 366, 376 of the Indian Penal Code and Section 4 of the Protection of Children From Sexual Offences Act.
2. Case of the prosecution, in brief, is that on 5.10.2017, mother of the prosecutrix lodged a report of missing of the prosecutrix, aged about 16 years and on the basis of which, offence under Section 363 of the Indian Penal Code was registered against an unknown person. During the course of investigation, the prosecutrix and the Applicant came to the police station and on the basis of the statement of the prosecutrix, offence under Sections 366 and 376 of the Indian Penal Code and Section 4 of the Protection of

Children From Sexual Offences Act was added. Charge-sheet has been filed against the Applicant.

3. Learned Counsel appearing for the Applicant submits that statement of the prosecutrix recorded under Section 164 of the Code of Criminal Procedure is that she herself went along with the Applicant without any protest and both of them developed sexual intercourse with each other with their own consent. In her statement recorded under Section 161 of the Code of Criminal Procedure also, she has stated that there was love affair between her and the Applicant for the last two years and since her parents were not agreed, she herself ran away from her house along with the Applicant. Hence, the prosecutrix was a consenting party and there is no conclusive evidence regarding her age to establish that on the date of incident she was below 16 years of age. Charge-sheet has been filed against the Applicant. He is in custody since 27.10.2017 and trial will take some time. Therefore, he may be released on bail.
4. Learned Counsel appearing for the State opposes the bail application.
5. I have heard Learned Counsel appearing for the parties and perused the entire case diary with due care.
6. Having regard to the facts and circumstances of the case, particularly, the statements of the prosecutrix recorded under Sections 164 and 161 of the Code of Criminal Procedure and that charge-sheet has been filed against the Applicant, he is in jail since 27.10.2017 and trial may take some time, without

commenting on merits of the case, I am inclined to enlarge the Applicant on bail.

7. Accordingly, the bail application is allowed.
8. It is directed that the Applicant shall be released on bail on furnishing a personal bond in the sum of Rs.10,000/- with one solvent surety of the like sum to the satisfaction of the concerned Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
JUDGE