

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C No. 836 of 2018

- Rahul Sarkar S/o Manitosh Sarkar Aged About 19 Years R/o Village Bilha, Patharkhan Bhatha, Bilha, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Bhilai Nagar Durg Chhattisgarh, District : Durg, Chhattisgarh.

---- Respondent

For the Applicant : Shri Kunal Das. Advocate.

For the Respondent/State : Shri U.K.S. Chandel PL.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12.04.2018

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. 175/2017, registered at Police Station – Bhilai Nagar, District – Durg, (C.G), for the offences under Sections 363, 366, 376 of the Indian Penal Code and Section 3 and 4 of Protection of Children From Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case and he is in jail since 22.07.2017. After completion of investigation the charge-sheet has been filed, no case is made out against this applicant. The prosecutrix in this case was a minor girl on the date of incident, as according to the ossification test conducted in the investigation, the

age was found between 18 to 19 years and further she was a consenting party. The trial is likely to take some time for its completion, hence, it is prayed that the applicant be released on bail.

3. Learned counsel for the State opposes the bail application and submits that according to the school register, the age of the prosecutrix was below 18 years on the date of incident. Hence, the consent if any, given by her is immaterial. According to the statement given by the witnesses there is clear prima facie case for prosecution of this applicant, no case is made out for grant of bail.
4. Heard counsel for both the parties and perused the case diary.
5. According to the prosecution case on 24.04.2017 the present applicant abducted the minor prosecutrix. On 26.04.2017, the FIR was lodged by the victim against this applicant and the offence of rape was also registered against him.
6. Considering the submissions and contents of the case diary, Perusal of the statement given by the prosecutrix under Section 164 of Cr.P.C., and also on perusal of the report of ossification test, the argument advanced on behalf of the applicant finds some support, hence, I am of the view that it is a fit case where the applicant is entitled for grant of bail. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing 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, for his appearance as and when directed.

Sd /-

(Rajendra Chandra Singh Samant)

Judge