

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7929 of 2017

- Sagar S/o Ganga Ram Aged About 32 Years R/o Ghutri Dafai, Charcha Colliery, Police Station Charcha, Tahsil Baikunthpur, District Korea Chhattisgarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Charcha, District Korea Chhattisgarh, Chhattisgarh

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate.
For Respondent : Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

27/02/2018

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.128/2017, registered at Police Station– Charcha, District– Korea(C.G.) for the offence punishable under Sections 363, 366, 376 of Indian Penal Code & Sections 4 of Protection of Children from Sexual Offence Act.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. Applicants is in jail since 24.08.2017. The prosecutrix willingly accompanied this applicant and had gone to places. Mother of prosecutrix has lodged FIR on the basis of which the alleged offence has been registered against this applicant. The prosecutrix has given statement before the Judicial Magistrate First Class under Section 164 of CrPC, according to which she has

made no allegation against this applicant. Hence, he is not entitled for grant of regular bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that age of the prosecutrix on the date of incident was about 16 years 11 months and theory of consent of her is totally immaterial. Hence, no case is made out for grant of bail.
4. Heard both the parties and perused the case diary.
5. The case against this applicant is this that prosecutrix was abducted by this applicant on 18.8.2017. FIR was lodged on mother of prosecutrix on 23.8.2017, thereafter prosecutrix was recovered and on the basis of the statement given by her, case of rape against the applicant was registered. Investigation has been completed and charge-sheet has been filed in this case.
6. Considered.
7. Perused the statement of the prosecutrix before the JMFC under Section 164 of CrPC, in which, she has turned hostile and she has not supported the case of prosecution. Hence, I am of this opinion that this is a fit case where applicant should be released on regular bail.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his 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

