

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1026 of 2018

- Jitesh Mishra, aged about 24 years, S/o Ram Khelavan, By Caste Brahiman, R/o Ujrabahra, Thana Beohari (wrongly mention as Tyohari), District- Shahdol M. P.

---- Applicant

Versus

- State Of Chhattisgarh Through: Police Station- Kelhari, District- Koriya, Chhattisgarh.

---- Respondent

For Applicants	: Mr. Sanjeev Das, Advocate.
For Respondent/State	: Mr. Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

10/04/2018

1. Heard.
2. 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. 30/2017, registered at Police Station- Kelhari, District – Koriya, (Chhattisgarh) for the offence punishable under Section 363, 366, 376 (2) (N) of the Indian Penal Code and Section 5(L)/6 of the Prevention of Children from Sexual Offence Act and Section 3 (2-5), 3 (1-4) of Schedule Caste Schedule Tribe (Prevention of Atrocities) Act.
3. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case, the applicant are in jail since 23.06.2017,

charge-sheet has been filed after completion of investigation. The prosecutrix, in this case, is a major girl and she was a consenting party in a physical relationship that happened between applicant and the prosecutrix according to the Statement of prosecutrix itself. In the investigation, it is revealed that applicant and the prosecutrix both have married. Further, looking to the material present in the charge-sheet no case is made out against the applicant, hence, it is prayed that applicant be enlarged on regular bail.

4. Learned State counsel opposes the bail application and submits that on the date of incident the age of prosecutrix was below 18 years and no case is made out of consensual physical relationship between applicant and the prosecutrix. Applicant is not entitled to be released on bail.
5. Heard both the parties and perused the case diary.
6. According to the prosecution case, on 2.05.2017 this applicant abducted the minor prosecutrix a girl belonging to the Schedule Tribe category and took her to the Ahamdabad, while keeping her there the applicant committed rape with the prosecutrix on several occasions. FIR against unknown person was lodged by father of the prosecutrix on 14.11.2017 and thereafter prosecutrix was recovered from the custody of this applicant on 23.06.2017. On the basis of statement given by the prosecutrix, offences were registered against the applicant. Hence this case.
7. Considering the entire material present in the case diary, it appears that the the age of the prosecutrix is debatable and further the statement of the prosecutrix shows that they had affair and because of which both got married, hence, after overall consideration, I am of this opinion that applicant should be benefited with grant of 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 each of them furnishing a personal bond for a sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Amita