

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7786 of 2017**

Gokul Sinha @ Golu, S/o. Late Dev Kumar Sinha, Aged About 23 Years, R/o. Chunabhatti, Raman Mandir Ward No. 21, Raipur, District -Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station -Ganj Thana, Raipur, District -Raipur Chhattisgarh.

---- Respondent

For Applicant : Mr. Jitendra Nath Nande, Advocate
For Respondent : Mr. Aaditya Sharma, P.L.

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. 170/2017, registered at Police Station- Ganj Thana, Raipur, District – Raipur (C.G.) for the offence punishable under Section 363, 366, 376 (2) (ढ) of the Indian Penal Code read with Section 6 of the POCSO Act.
2. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case. Father of the prosecutrix has lodged false FIR. The prosecutrix in this case was above 18 years on the date of incident and she was a consenting party to the entire

incident. It is further submitted that the prosecutrix has been examined before the trial Court and she has turned hostile in this case and not supported the case of the prosecution. Therefore, it is prayed that the applicant be enlarged on regular bail.

3. Learned State counsel opposes the application and the submission made in this respect. It is submitted that age of the prosecutrix on the date of the incident was below 18 years, hence, her consent of physical relation is immaterial and according to the evidence present in the charge-sheet, no case is made out for grant of bail to the applicant.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. As per the prosecution case, on 19.04.2017, the prosecutrix in this case went missing and on 20.04.2017, a missing report was lodged by the father of the prosecutrix. On 25.05.2017, prosecutrix was recovered from the custody of this applicant. Thereafter on the basis of the statement recorded, case has been registered against this applicant.
6. Considered the submissions made and the contents of the case diary. According to the statement given by the prosecutrix before the trial Court, she has not made any allegation regarding offence of rape because of which she has been declared hostile by the prosecution. Considering this change of circumstances in this case, this Court is inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.

8. 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.
9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge