

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1236 of 2018**

Ajay Yadav, S/o. Chhattar Yadav, Aged About 25 Years, R/o. Village -Udata,
Thana- Pali, District -Korba, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh, Through : Thana- Pali, District -Korba, Chhattisgarh.

---- Respondent

For Applicant : Mr. Samir Singh, Advocate

For State/respondent : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**17/04/2018**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.82/2015, registered at Police Station – Pali, District – Korba (C.G.), for the offence punishable under Section 376, 506 of the Indian Penal Code and Section 4 of Protection of Children from Sexual Offence Act & 3 (1) (Xii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. Applicant is in jail since 04.10.2016. Charge-sheet has been filed after completion of investigation and presently the case is before the trial Court and out of

21 witnesses, only four witnesses has been examined so far. It is also submitted that prosecutrix in this case was a consenting party and her age was above 18 years as it was revealed in ossification test that age of the prosecutrix was above 18 years, hence, it is prayed that the applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that according to the school records, the age of the prosecutrix was below 18 years, hence, no case of consent is made out.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, this applicant sexually exploited the prosecutrix on number of occasions with a false promise to marry her in future. Subsequent to lodging of FIR, the case has been investigated and charge-sheet has been filed.
6. Considered on the submissions made and the contents of the case diary. Considering the entire material present in the case diary and also perused the report of radiologist, it appears that the age of the prosecutrix is debatable in this case, which leads to scope of defence of the applicant, hence, under these circumstances and also looking to the delay in trial, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram