

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1346 of 2018**

Deepak Baghel S/o Goverdhan Baghel Aged About 20 Years R/o.-
Ravanbhata, Transport Nagar, Near Rahul Kirana Shop, Raipur Present
Address- Village Kathiya, Police Station Bemetara, District- Bemetara,
Chhattisgarh, District : Bemetara, Chhattisgarh.

---- Applicant**Versus**

The State Of Chhattisgarh Through- Station House Officer Police Station
Bemetara, District- Bemetara, Chhattisgarh, District : Bemetara,
Chhattisgarh.

---- Respondent

For the Applicant : Shri P.P. Sahu, Advocate.
For the Respondent/State : Shri Neeraj Mehta, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.04.2018**

Heard.

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.584 of 2017, registered at Police Station Bemetara, District – Bemetara, Chhattisgarh for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code and Section 5(I) of the Protection of Children from Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant is in jail since 23.10.2017 and has been falsely implicated in this case. The prosecutrix in this case is a major girl and she was a consenting party in the physical relationship. As per the statement given by the prosecutrix under Section 164 of the Cr.P.C., she stated that she had been to the house of the

applicant on her own and the applicant himself had asked her to return to her own house. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the prosecutrix is a minor girl aged about 17 years. Hence, in this situation, offence of rape has been committed because of which, the applicant is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. According to the prosecution case, the prosecutrix went missing on 10.9.2017. The father of the prosecutrix lodged a missing report on 3.10.2017. Thereafter, on 23.10.2017, the minor prosecutrix was recovered from the house of this applicant. Subsequent to that, the offences were registered against the applicant.

6. Considered the contents of the case-diary and specifically perused the statement of the prosecutrix under Section 164 of the Cr.P.C. in which she stated that she had been to the house of the applicant on her own. As submitted by counsel for the applicant that the age of the prosecutrix is debatable as the reliance of the prosecution on the school register is not a conclusive piece of evidence, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge