

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6356 of 2017**

Tipu Kosma S/o M.L.Kosma, Aged About 26 Years Caste Halba, R/o Village Korar Janjalipara Korar P.S. Korar District Kanker, Chhattisgarh, Present R/o Adarsh Vidyalaya Parisar Balud Tehsil And District South Bastar Dantewada, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Geedam, District Dantewada, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sanjay Kumar Agrawal, Advocate.
For the Respondent/State	:	Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.01.2018**

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. 68 of 2017, registered at Police Station Geedam, District Dantewada, Chhattisgarh for the offence punishable under Sections 363, 363(A) and 376 of the Indian Penal Code and Section 3 (1)(4) of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. It is also submitted that the age of the prosecutrix, at the relevant time, was above 18 years. The applicant and the prosecutrix had love affair between them and their physical relationship was

based on consent. No offence is made out against the applicant. The prosecutrix has filed an affidavit before the Special Additional Sessions Judge (FTC), Dantewada submitting that she has no objection if the applicant is released on bail and she wants to marry the applicant. Certified copy of the affidavit has been produced. 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 age of the prosecutrix on the date of incident was 17 years 9 months and 20 days according to the school certificate, hence, she was a minor and her consent is immaterial 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. The case against the applicant is that he allured the prosecutrix with a promise to marry her and had physical relationship with the prosecutrix without her consent and willingness. The date of birth of the prosecutrix is 24.6.1999 according to the school register, hence, she was a minor on the date of incident.

6. Considering the submissions and the contents of the case-diary, taking into consideration the facts of the case, I am of the considered opinion that the applicant deserves to be released on bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one local 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