

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 7286 of 2017**

Manoj Mandavi S/o Sagguram Mandavi Aged About 25 Years By
Caste Gond, R/o Gavdepara Mulla, Thana Bhanupratappur, Distt. U.
B. Kanker Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Bhanupratappur, Distt.
U. B. Kanker Chhattisgarh.

---- Respondent

For the Applicant : Shri Parag Kotecha, Advocate.
For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.01.2018**

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.219 of 2015, registered at Police Station – Bhanupratappur, District – Kanker, Chhattisgarh for the offence punishable under Sections 376 and 506 of the Indian Penal Code and Section 3(A) and 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 5.6.2017 and has been falsely implicated in this case. The date of incident as alleged is 22.10.2015 whereas the FIR was lodged on 8.11.2015 after due deliberations. The age of the prosecutrix as per radiology report is

between 17 to 18 years, hence, the documentary proof from the admission register in the school cannot be relied upon as perfect information. The applicant has been arrested on 5.6.2017 and he is continuously in detention. After completion of investigation, the charge-sheet has been filed. 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. It is submitted that the delay has been explained by the prosecutrix that the applicant threatened her that he will kill her brother because of which the prosecutrix kept mum for some days before making a complaint to the police. As per the admission register, the prosecutrix is a minor aged about 17 years on the date of incident, hence, no case is made out for grant of bail to the applicant.

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

5. The case against the applicant is that on the date of incident when the prosecutrix had been to see the Dussehra festival, the applicant who was known to her and told that her aunt (*mami*) is missing and asked the prosecutrix to accompany him for the search. The applicant took the prosecutrix on his motorcycle to a place in jungle and then got her submission for sexual intercourse after threatening her and then committed forceful sexual intercourse without her consent and willingness. After lodging of FIR, the case has been investigated and the charge-sheet has been filed.

6. Considering the submissions and the contents of the case-diary, the fact that the age of the prosecutrix presently appears to be below 18 years but the applicant/ accused has a defense in this respect and the medical report does not show any injury in the body and the private parts of the prosecutrix, I am of this view that the applicant is a local resident shall be available for the trial and no purpose would be served if the applicant is kept in detention for the whole period of trial, this application is allowed.

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