

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2976 of 2018**

Bhagat Sahu, S/o. Mohan Sahu, Aged About 22 Years, R/o- Village Mainpur
P.S. Benur, District- Kondagaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- The Police Station Benur, District-
Kondagaon, Chhattisgarh.

---- Respondent

For Applicant : Mr. P.K. Tulsyan, Advocate

For State/respondent : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**26/06/2018**

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.30/2017, registered at Police Station – Benur, District – Kondagaon (C.G.), for the offence punishable under Section 363, 366, 341, 506 and 376 of the Indian Penal Code.
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 26.10.2017. Charge-sheet has been filed after completion of investigation. No case is made out against this applicant on the basis of the material present in the case diary. In fact the applicant and the prosecutrix had love affair between them and prosecutrix is major girl of aged 19 years according to entry in the school admission register, which is a part of case diary and charge-sheet. The prosecutrix had

willingly accompanied this applicant and resided his house for two days but as her family members had disliked the applicant, because of which, false FIR has been lodged and the applicant has been arrested and detained. 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 the date of birth of the complainant is disputed on account of two proof of school admission register that has been seized in the investigation and the another document seized, the date of birth of this prosecutrix is 20.07.2001 and on that basis her age on the date of incident was 16 years, hence, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the prosecution case, the allegation against this applicant is this that he abducted the minor prosecutrix and kept her in confinement putting the minor prosecutrix in threat and committed the offence of rape.
6. Considered on the submissions made and the contents of the case diary. Doubt has been raised in the investigation material itself by bringing forth more than one proof of date of birth of the prosecutrix in this case. Further perusing the statement under Section 164 of Cr.P.C. of the prosecutrix, it appears that the argument submitted on behalf of the applicant finds some support, hence for this reason, 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