

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 3397 OF 2018

Sandeep Joshi S/o Shri Shiv Kumar Joshi Aged About 23 Years R/o- Ward No. 11, Surya Chowk, Kharora, Police Station Kharora, Raipur, Chhattisgarh. Presently Residing At Village Chhadiya, Police Station Kharora, District- Raipur, Chhattisgarh.

... Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station Newra, District Raipur (CG).

... Respondent

For Applicant	:	Shri BL Sahu, Advocate.
For Respondent-State	:	Shri Mazid Ali, Dy.Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25.06.2018

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since **22.02.2018** in connection with Crime No. 62 of 2018 registered at Police Station Newra, Distt. Raipur, for the offence punishable under Sections 363, 366, 376 IPC and under Sections 4 & 6 of POCSO Act.
2. As per prosecution case, the applicant is said to have abducted the prosecutrix, a minor girl, and have kept her in confinement without consent of her parents and have had physical relationship with the prosecutrix for a considerable period of time and it is only after FIR lodged by the mother and on subsequent investigation, the prosecutrix could be recovered. It is a case where the prosecutrix is said to have gone along with the applicant on 04.02.2018 and she remained with the applicant till 22.02.2018 when she was ultimately recovered.

3. Learned Counsel for the applicant submits that a plain reading of the statement of the prosecutrix under Section 161 so also under Section 164 CrPC would reveal that there is a clear case of consent given by the prosecutrix and that she voluntarily eloped along with the applicant as they were having love affair since long. Thus, prayed that the present applicant be released on bail.
4. The State counsel opposing the application submits that the prosecutrix was a minor on the date of incident and irrespective of whether she is a consenting party, the fact that she is a minor would dis-entitle him from any bail.
5. Without commenting on merits, considering the totality of the facts and circumstances of the case particularly taking note of the statement of the prosecutrix wherein she has categorically stated of having voluntarily gone along with the applicant and stayed with him for a considerable period of time, and further from her statement there does not appear to be any coercion or false assurance put by the applicant, this Court is of the opinion that the present is a fit case where the Applicant can be enlarged on bail.
6. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed.

Sd/-
(P. Sam Koshy)
Judge