

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 3483 of 2018**

Naresh Harijan S/o Chhabilal Harijan, aged about 22 years, R/o-
Village- Bavankera, P.S. Beltukari, District- Nuvapada (Odisha)

---- Applicant**Versus**

State of Chhattisgarh through- P.S. Komakhan, District-
Mahasamund, Chhattisgarh

---- Respondent

For Applicant	:	Shri Mayank Chandrakar, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27/06/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 10.01.2018 in connection with Crime No. 122/2017 registered at Police Station - Komakhan, Mahasamund (CG) for the offence punishable under Sections 363, 366 376 (2) (ब) of IPC & Section 4 of Protection of Children from Sexual Offences Act.

2. The allegation against the present applicant as per the prosecution is that knowing fully well that the prosecutrix is a minor, the applicant is said to have abducted her from the custody of her parents without their consent and thereafter taken her to different places and in between made sexual intercourse with her on repeated occasions.

3. Counsel for the applicant submits that the prosecutrix in the instant case is aged around 17 ½ years and the applicant is also a young boy

aged about 21-22 years. He further submits that they had lover affair for long and they had jointly decided for eloping from the house and started living together as husband and wife, therefore, there is a clear case of consensual relationship between the two. Thus, prayed for grant of bail to the applicant.

4. State counsel, however, opposing the bail application submits that admittedly the age of the prosecutrix was less than 18 years and that she was a minor, therefore, even if there was an element of consent, it is of no consequence and prayed for rejection of the bail application.

5. Having heard the counsel for the parties and taking note of the age of the prosecutrix which is around 17 ½ years and her statement of having voluntarily gone along with the applicant, in addition of her statement that they had willingly stayed as husband and wife and at no point of time she had ever resisted or objected to have physical relationship with the applicant, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

6. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will 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 before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
JUDGE