

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 3403 OF 2018

Raju Bhuiya S/o Indrajeet Bhuiya Aged About 21 Years R/o- Ward No. 06, Village- Titardeeh, Post- Ranka Raj, Police Station- Ranka, Tahsil And District- Gandva (Jharkhand).

... Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station Parpodi, District Bemetara (CG).

... Respondent

For Applicant	:	Ms. Sharmila Singhai, Advocate.
For Respondent-State	:	Shri Shashank Thakur, 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 23.11.2017 in connection with Crime No. 59 of 2016 registered at Police Station Parpodi, Distt. Bemetara, for the offence punishable under Sections 363, 366 (A), 376 IPC and Sections 5(L) and 6 of the 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.
3. Learned Counsel for the applicant submits that a plain reading of the statement of the prosecutrix under Section 164 CrPC would reveal that there is a clear case of consent by the prosecutrix and that she was voluntarily gone along with the applicant. There is no sufficient proof available in the case diary to also establish the fact that the prosecutrix is a minor and that the version of the prosecution so far

as prosecutrix being minor cannot be held to be conclusive or authentic. 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 the applicant from any bail. Thus, prayed for rejection of 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 also taking note of the age of the prosecutrix as also that of 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