

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C No.3537 of 2018**

Sukhdas Mahant S/o Shri Chhotelal Mahant Aged About 23 Years R/o- Village-Dhamni, Thana- Hasoud, Civil Asnd Revenue, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Station-Seetapur, District- Surguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Non-Applicant

For Applicant:

Shri Sunil Sahu, Advocate.

For State/Non-Applicant:

Shri Vijay Bahadur Singh, Panel Lawyer.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

25.6.2018

1. The Applicant has filed this application under Section 439 Code of Criminal Procedure for grant of regular bail as he is in custody since 01.06.2017 in connection with Crime No.47/2017 registered at Police Station – Seetapur, District Surguja (CG) for the offence punishable under Sections 363-366, 376(2-n) IPC, under Section 5(i)/6 of Protection of Children from Sexual Offences Act, 2012 and under Section 3(2)(v) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Case of the prosecution is that the Complainant Ganesh Ram, father of the prosecutrix has lodged a report on 04.03.2017 alleging that on 27.02.2017, his daughter, aged about 17 years went to the village market and did not return. It is stated that in the said complaint, upon enquiry being made by him, he came to know that she went to Dharamjaigarh by bus and further it has

been informed by the villagers that they saw her talking with the Applicant through mobile phone. Further case of the prosecution is that upon receiving the said information, the Complainant went to the house of the Applicant, however, his house was found locked. Therefore, missing report was lodged by him and on 01.06.2017 his daughter was recovered from Jammu and Kashmir near Army Camp from the possession of the Applicant. Based upon the said facts, an offence has been registered against the Applicant.

3. Learned Counsel for the Applicant submits that the Applicant has been falsely implicated in connection with the said crime and the prosecutrix herself accompanied him and at the time of offence, she was 11 days short to 18 years of age and therefore, the Applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State while opposing the prayer for bail submits that at the time of commission of alleged offence, the prosecutrix was minor and therefore, the Applicant is not entitled to be released on bail.

5. Having considered the facts and circumstances of the case, the age of the prosecutrix, which is *prima facie* below 18 years, I am not inclined to release the Applicant on bail, at this stage, particularly when her age has to be determined at the time of trial. Accordingly, the instant M.Cr.C is rejected.

Sd/-
(Sanjay Agrawal)
Judge