

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3654 of 2018**

- Rambachan S/o Late Shri Ramprasad Aged About 23 Years R/o- Village Pandri, Police Station Surajpur, Tahsil Ramanujnagar, District- Surajpur, Chhattisgarh.,

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Outpost Latori, Police Station- Jainagar, District- Surajpur, Chhattisgarh.,

---- Respondent

For Applicant	:	Shri Anil Gulati, Advocate.
For Respondents/State	:	Shri V.B.Singh, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****24.08.2018**

1. This is first bail application preferred under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr.P.C.) for grant of regular bail as he has been arrested on 27.03.2018 in connection with Crime No.80/2018 registered in Police Outpost Latori, Police Station Jainagar District Surajpur (C.G.) for the offence punishable under Sections 363, 366 & 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act).
2. Case of the prosecution is that on 11.03.2018 the complainant, who is the uncle of the prosecutrix, returned home and found that the door of the house is open and he did not find the prosecutrix at home. He thereafter enquired about the prosecutrix and when he did not get any information, lodged the report against an unknown person that someone has abducted his niece. Further prosecution story is that on the basis of the said report, an investigation was made and during investigation, the prosecutrix was found in possession of the applicant on 26.03.2018 and it was also found that the age of the prosecutrix is below 18 years, and therefore, while registering the offence as above, the applicant has been arrested on 27.03.2018.

3. Shri Anil Gulati, learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the aforesaid crime. He submits that a bare perusal of the statement of the prosecutrix recorded under Section 164 of the Cr.P.C., it is evident that she was not recovered from his possession, as alleged by the prosecution. He submits further since the charge sheet has already been filed, and therefore, there is no possibility of tampering with the evidence and influencing any of the witnesses, mentioned in the charge sheet and since the applicant is in jail for more than 4 ½ months, therefore, the applicant is entitled to be released on bail.

4. On the other hand, Shri V.B.Singh, learned counsel for the State while opposing the bail application submits that though offence has been registered against an unknown person on the basis of the report lodged by the prosecutrix's uncle, namely Ram Sai but during investigation it was found that the prosecutrix was abducted by the applicant on 11.03.2018 and from his possession she was recovered on 26.03.2018 and it was also revealed during investigation that the prosecutrix is below the age of 18 years and under such circumstances, the applicant is not entitled to be released on bail.

5. I have heard learned counsel for the parties and perused the case diary carefully.

6. Having considered the facts and circumstances of the case and that by considering the age of the prosecutrix, which appears to be prima facie below the age of 18 years and that by considering further that she was recovered from the applicant's possession, I am not inclined to enlarge the applicant on bail.

7. The bail application is accordingly rejected. It is, however, made it clear that I have not entered into the merits of the case and the trial Court shall proceed with the matter without influencing any of the observations of mine while rejecting this application.

Sd/-
(Sanjay Agrawal)
Judge