

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4254 of 2018

- Devkumar @ Bahal S/o Shri Shambhu Patel Aged About 19 Years R/o Village Rohra, Thana Pandatarai, Civil And Revenue Distt. Kabeerdham Chhattisgarh.

**---- Applicant
In Jail**

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Pandatarai, Civil And Revenue District Kabeerdham Chhattisgarh.

---- Respondent

For Applicant	:	Shri Samir Singh, Advocate.
For Respondent/State	:	Shri Anil Pillai, Dy.A.G.

Hon'ble Shri Pritinker Diwaker, J

Order On Board

03/07/2018

The applicant has filed this application under Section 439 of CrPC for grant of bail as he is in custody since 27.5.2017 in connection with Crime No.41/2017 registered at Police Station – Pandatarai, Distt. Kabeerdham for the offence punishable under Sections 363, 366A, 376(1) of IPC and Sections 3 & 4 of Protection of Children from Sexual Offences Act, 2012.

02. As per prosecution case, on 18.5.2017 a missing report was lodged by father of the prosecutrix that his daughter/prosecutrix, aged about 17 ½ years, is missing since 16.5.2017. The prosecutrix was recovered from the custody of the applicant on 27.5.2017 and based on her statement, the applicant is being prosecuted.

03. Counsel for the applicant submits that there is inordinate delay in

lodging the FIR. In between 16.5.2017 and 27.5.2017, the prosecutrix visited several places along with the applicant without offering any protest. He submits that there is no legally admissible evidence or at least conclusive evidence showing the prosecutrix to be minor on the date of incident. He further submits that in her statement u/s 164 of CrPC the prosecutrix has expressed her desire to live with the applicant and stated that she was having affair with him.

04. On the other hand, State counsel opposes the bail application.

05. Heard counsel for the parties and perused the material available on record.

06. Considering the facts and circumstances of the case, in particular delay in lodging FIR, the fact that in her statement u/s 164 of CrPC the prosecutrix has expressed her desire to live with the applicant and that evidence related to her age is not conclusive, without further commenting on merits of the case, I am inclined to release the applicant on bail. Accordingly, the application is allowed. The applicant is directed to be released on bail on his furnishing a personal bond of Rs. 1 lac with one surety for the like sum to the satisfaction of the concerned trial Court for his appearance before it as and when directed.

Sd/

(Pritinker Diwaker)

Judge