

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 4452 OF 2018

Narottam Vishwakarma S/o Bahorik Vishwakarma Aged About 23 Years R/o-
Kundarapara, Tifra, P.S. Sirgitti, Tahsil And District- Bilaspur, Chhattisgarh.

... Applicant

Versus

State Of Chhattisgarh Through- Station House Officer, Police Station Sarkanda,
District- Bilaspur, Chhattisgarh.

... Respondent

For Applicant	:	Shri Rajveer Kumar Dubey, Advocate.
For Respondent-State	:	Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/07/2018

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since **27.05.2018** in connection with Crime No.364 **of 2018 registered at Police Station Sarkanda, Distt. Bilaspur for the offence punishable under Sections 363,366,376 IPC and Sections 3 & 4 of the POCSO Act.**
2. As per prosecution case, the applicant knowing fully well that the prosecutrix was a minor is said to have abducted her and thereafter taken her to different place and in between he also had physical relationship with the prosecutrix.
3. Learned Counsel for the applicant submits that it is a case where the prosecutrix is more than 16 years of age and that she is a consenting party to the entire relationship that the prosecutrix had with the applicant. It is further submitted that the applicant and the prosecutrix had voluntarily eloped from their house and went to Raipur where they got married in a Temple and were residing as

Husband and Wife when she was recovered at the instance of a complaint lodged by her father. Therefore, the applicant be released on bail.

4. The State counsel however opposes the application and submits that irrespective whether there is an element of consent or not, the fact remains that the prosecutrix was a minor and therefore, the applicant can not take advantage of the consent, if any, given by the prosecutrix. Thus, prayed for rejection of the bail application.
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 where she has categorically admitted the fact that there was a love affair between the two and they had voluntarily eloped from the house and they had already married in a Temple and were living together as Husband and Wife, further considering the age of the the applicant also who is a young boy of 23 years, 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