

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4865 of 2018**

Antu Ram Toppo S/o Sonsingh, Aged About 20 Years R/o Navatola,
Bairkatta, Police Station Manpur, District Rajnandgaon Chhattisgarh.,
District : Rajnandgaon, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Manpur,
District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant : Shri Aditya Bhardwaj, Advocate.
For the Respondent/State : Shri Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****31.07.2018**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No. 62 of 2017, registered at Police Station Manpur, District Rajnandgaon, Chhattisgarh for the offence punishable under Sections 363, 366 and 376(2) of the Indian Penal Code and Sections 5(L) & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submits that the applicant is in jail since 21.8.2017 and has been falsely implicated in this case. The case is pending before the concerned Court and so far, the trial has made no progress and also not a single witness has been examined. No case is made out against the applicant as the prosecutrix was a consenting party.

Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the age of the prosecutrix on the date of incident was 15 ½ years and her consent is immaterial. Hence, the applicant is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. The allegation against the applicant is that he abducted the minor prosecutrix on 31.7.2017 and then committed the offence of rape with her. The prosecutrix was recovered on 21.8.2017 and before that, the FIR was lodged by the father of the prosecutrix alleging commission of offence of abduction. Hence, this case.

6. Considered the material present in the case-diary. The evidence in this case although against the applicant but the fact has to be taken notice of that nearly one year is going to be completed and still not a single witness has been examined by the trial Court. Hence, for these reasons, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to

the satisfaction of the concerned trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi