

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5934 of 2018**

Mohammad Maqsood, S/o Mohammad Yusuf, aged about 32 years, R/o Village Banwarahi circle Basdi, P.S. Surajpur, District Surajpur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Police Station Premnagar, District Surajpur (CG).

---- Non-applicant

For Applicant : Ms. Renu Kochar, Advocate

For Non-applicant : Mr. Sunit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**07.09.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the copy of charge-sheet provided by the counsel for the applicant in connection with Crime No.16/2017 registered in Police Station Premnagar, District Surajpur for the offence punishable under Sections 363, 366 & 376 of IPC and Sections 3 & 4 of the Protection of Children from Sexual Offence Act, 2012.
3. Case of the prosecution, in brief, is that the age of the prosecutrix was below 16 years on the date of incident. She is resident of village Kotariya. On 08.02.2017 the applicant abducted the prosecutrix and took away her in different places. He committed forcefully sexual intercourse with her on the pretext of marriage.
4. Counsel for the applicant would submit that there is a delay in lodging the FIR for 07 days. The prosecutrix was a major girl at the time of incident. She had left her house on her own will. Counsel would further submit that the applicant has not committed any offence and has been falsely implicated in the case and as such the applicant may be

released on bail.

5. On the other hand, counsel for the State would oppose the prayer for grant of bail to the applicant.
6. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.
7. As per the admission register of prosecutrix, the date of birth of the prosecutrix is 10.03.2001. *Prima facie* at this stage, it appears that on 08.02.2017, the age of prosecutrix was below 16 years.
8. As per statement of prosecutrix recorded under Section 164 of CrPC, the applicant had concealed this fact that he has already married man.
9. What would be effect of delayed in lodging the FIR may be considered at the time of final disposal of the case considering the merits and demerits of case.
10. Looking to the above mentioned facts and circumstances of the case, looking to this fact that on 08.02.2017 *prima facie* the age of prosecutrix was below 16 years and further looking to this fact that the applicant had concealed this fact that he has already married man. Looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.
11. Consequently, the bail application is rejected.
12. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-