

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6067 of 2018**

Ravi, S/o late Chhedi Das Mahobiya, aged about 27 years, Occupation Agriculture, R/o Bodtara Khurd, Police Station Pandariya, Tahsil Pandariya, District Kabirdham (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Pandatarai, District Kabirdham (CG).

---- Non-applicant

For Applicant : Mr. Dharmesh Shrivastava, Advocate

For Non-applicant : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****27.09.2018**

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.109/2017 registered in Police Station Pandatarai, District Kabirdham for the offence punishable under Sections 363, 366, 376 of IPC and Sections 3, 4 of Protection of Children from Sexual Offences Act, 2012.
3. Case of the prosecution, in brief, is that on 15.11.2017 the age of the prosecutrix was below than 16 years. As per Admission Register, her date of birth is 10.09.2002. She is resident of village Bodtara Khurd. On 15.11.2017 at about 10:00 am, the applicant took the prosecutrix by enticing to perform marriage with her and they went to Bhopal. They lived there as a husband and wife for three months. The applicant committed sexual intercourse with her due to which she became pregnant.
4. Counsel for the applicant would submit that the applicant has not committed any offence and has been falsely implicated in the case. He

would further submit that in the statement of prosecutrix recorded under Section 164 of CrPC, her age is mentioned 18 years old; and she has also stated that she was gone with the applicant with her own will and performed marriage with him. She does not want to take any legal action against him 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. The age of 18 years mentioned in the statement of the prosecutrix recorded under Section 164 of CrPC as estimated age and estimated by the Court. Looking to the age of the prosecutrix entered in the Admission Register, *prima facie* the prosecutrix was below than 16 years on the date of incident i.e. 15.11.2017; looking to the facts and circumstances of the case, 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.
8. Consequently, the bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-