

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6339 of 2017

- Simsan Singh Chouhan S/o Shri Pramod Singh Chouhan Aged About 24 Years R/o Village Jhalmala, Chowki, Jute Mill, Police Station City Kotwali, Raigarh, Tahsil And District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through : S. H. O. Of The Police Station- City Kotwali, District Raigarh, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Abhishek Saraf, Advocate.
For Respondent	:	Mr. Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

08/01/2018

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.249/2017, registered at Police- Station-City Kotwali, District– Raigarh (C.G.) for the offence punishable under Sections 363, 366, 376 of Indian Penal Code (for short 'IPC') & 4, 6 of the POCSO Act.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. The prosecutrix in this case is major. Reliance of the prosecution on the entries in school register is not reliable piece of evidence. The statement of prosecutrix under Sections 161 and 164 shows, that she had been a consenting party and she has stayed with applicant for a period of two months, hence, under these circumstances, he is entitled for grant of regular

bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that the age of prosecutrix according to the entry in school register had been about 17 years on the date of incident, therefore, no question arises about the consent of prosecutrix. Hence, he is not entitled for grant of bail.
4. Heard both the parties and perused the case diary.
5. The prosecutrix lodged FIR against applicant stating in it that about two months prior to the lodging of FIR, applicant enticed and abducted her and then performed a fake marriage in a temple, thereafter, applicant had physical relationship with the prosecutrix and kept her confined in a house. Later on, when prosecutrix was driven out by the applicant, the FIR has been lodged.
6. Considering the submissions made and contents of the case diary taking into consideration the statement of prosecutrix under Sections 161 and 164 of CrPC, I am of this view that this appears to be a fit case where the applicant should be enlarged on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on her furnishing a personal bond for a 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge