

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7690 of 2017

- Vijay Kumar Kol Son of Ishwar Lal Kol, aged about 32 years, R/o Navapara, Dhawaipur, Police Station Katghora, District-Korba (Chhattisgarh).

---- Applicant

Versus

- State Of Chhattisgarh, Station House Officer, Police Station Katghora District- Korba (Chhattisgarh)

---- Respondent

For Applicant :Mr. Govind Ram Miri & Mr. Basant Kaiwartya, Advocate
For State :Ms. Smita Ghai, Panel Lawyer

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

13/02/2018

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. 260/2017, registered at Police Station- Katghora, District- Korba, (C.G.) for the offence punishable under Sections 363, 366, 376 of IPC and Section 4 of Protection of Children for Sexual Offences Act, 2012.
2. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case applicant and the prosecutrix had love affair and they intended to marry each other. As the parents of the prosecutrix did not agree for this marriage, the applicant and the prosecutrix, without the consent of the parents, have performed the marriage in a temple and were living as husband and wife together. The only ground for alleged commission of offence is that the age of

the prosecutrix was below 18 years i.e. minor on the date of offence, the proof on which the prosecution is relying is the entry in the admission register of the School, which is not a conclusive piece of evidence. Hence, no case is made out against the applicant, it is prayed that applicant be enlarged on bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that date of birth of the prosecutrix according to the School register is 06.05.2001 further in her Statement recorded under Section 164 of Cr.P.C., she has stated that her age to be below of 18 years, hence under these circumstances consent, if any, given by the prosecutrix in this case is immaterial, therefore, he is not entitled for grant of bail.
4. Heard both the parties and perused the case diary.
5. The fact of the case is that applicant and the prosecutrix were known to each other and had love affair between them, who also intended to marry each other. As the parents of the prosecutrix did not agree for their marriage, they eloped on 23.07.2017 and got married in the temple, and thereafter both have developed physical relationship. The investigation shows that the age of the prosecutrix is below 18 years on the date of the incident. Prosecutrix was recovered on 08.11.2017 from the custody of the applicant.
6. On going through the entire material of the case diary and the other submission regarding the age of the prosecutrix made by the counsel for the applicant which are proposed to be proved in defence and the fact that the trial is likely to take some time for its conclusion. For this reason, I am of this view that this is a fit case where the applicant should be released on regular 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 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

Amita