

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7712 of 2017**

Darshan Kumar Sarvaiya, S/o. Suresh Sarvaiya, Aged About 22 Years, R/o. Purana Rawan Bhantha, Ward No. 16, Police Station -Mahasamund, District Mahasamund Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, S/o. Through : Station House Officer, Police Station Chhura, Civil and Revenue District -Gariyaband Chhattisgarh.

---- Respondent

For Applicant	: Mr. Pushpendra Kumar Patel, Advocate
For Respondent/State	: Mr. Vijay Bahadur Singh, P.L.

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, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.67/2017, registered at Police Station – Chhura, District – Mahasamund (C.G.) for the offence punishable under Section 363, 366, 376 (2) (ढ) of the Indian Penal Code and Section 4, 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. Applicant and the prosecutrix had affair between them because of which, the prosecutrix accompanied the applicant and went to Rajasthan with him. According to the statement of the prosecutrix under Section 164 of Cr.P.C., both of them have performed marriage. After staying for sometime in Rajasthan both of them came back. The father of the prosecutrix lodged FIR on 08.05.2017, charge-sheet has been filed after completion of investigation.
3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that the age of the prosecutrix on the date of incident was below 18 years, hence any consent by her is immaterial and the offence registered against the applicant is made out, hence, he is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. The prosecution case in brief is that the prosecutrix was aged about 17 years, she was allured by the applicant with promise to marry her and then he had physical relation with her, thereafter, applicant took the prosecutrix with him to Rajasthan where he had physical relationship with her on various occasions. After lodging of FIR by the father of the prosecutrix, prosecutrix was recovered from the custody of this applicant, hence, this case.
6. Considered the submissions made and the contents of the case diary. On perusing the statement of the prosecutrix recorded under Section

164 of Cr.P.C. and also statement recorded under Section 161 of Cr.P.C., it appears that applicant has a case to defend, hence for this reason, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on 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 his 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge