

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 8168 of 2018**

Badku @ Parmeshwar S/o Shiv Prasad, Aged About 22 Years Caste- Bareth, R/o Village- Madanpur, Police Station- Mungeli, Tahsil And District- Mungeli Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Police Station- Jarhagaon, District- Mungeli Chhattisgarh.

----Non-applicant

For Applicant	:	Mr. R.K. Jain, Advocate
For State	:	Mr. Syed Majid Ali, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/11/2018**

1. This is an application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No. 226/2018 registered at Police Station Jarhagaon, District Mungeli, Chhattisgarh for the offence punishable under Sections 363, 366, 376 of Indian Penal Code and Section 4 , 6 of Protection of Children from the Sexual Offences Act, 2012.
2. The present applicant is in jail since 22.09.2018 in connection with the aforesaid Crime number.
3. The allegation against the present applicant is that the present applicant knowing fully well that the prosecutrix is a minor, abducted her from her home without the consent of the parents and took her to different places and in the process is said to have had physical relationship with her, which amounts to rape.
4. Counsel for the applicant submits that the mere statement of the prosecutrix under Section 164 itself would reveal that it was the

prosecutrix, who had called the present applicant and both of them have eloped from the house voluntarily and that there was no coercion, force or any pressure put by the present applicant in the said act. He further submits that it is a case where the applicant and the prosecutrix were having a love affair and they jointly and voluntarily decided to elope and which they did and thus the present applicant may be released on bail.

5. The State counsel opposing the bail application submits that the age of the prosecutrix was less than 18 and even if there is an element of consent given by the prosecutrix it is of more relevance as she was admittedly a minor.
6. Given the entire facts and circumstances of the case, particularly taking note of the age of the applicant as also the age of the prosecutrix, who was more than 16 years of age on the date of incident, prima facie this Court is of the opinion that it is a case of consensual relationship, accordingly a strong case for grant of bail has been made out. Accordingly, the present application for grant of bail is allowed.
7. It is directed that the 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 Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge