

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 9060 of 2018**

Nitya Gopal Das S/o Shri Rishikesh Das, Aged About 31 Years, R/o
Shanti Nagar, Near Durge Temple, Jagdalpur, District- Jagdalpur-
Bastar, Chhattisgarh **---- Applicant**

Versus

State Of Chhattisgarh Through Police Station- Bodhghat, District-
Jagdalpur- Bastar, Chhattisgarh **---- Respondent**

For Applicant	:	Shri Avinash K. Mishra, Advocate
For Respondent/State	:	Shri D. Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****10/12/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 11.05.2018 in connection with Crime No. 119/2018 registered at Police Station - Bodhghat, District Jagdalpur- Bastar (CG) for the offence punishable under Sections 363, 366, 376 & 506 of IPC and Section 4 of Protection of Children from Sexual Offences Act.

2. The case of the prosecution against the present applicant is that the applicant on the pretext of marriage is said to have allured the prosecutrix and took her to different places and in the course is said to have ravished her.

3. Counsel for the applicant submits that it is a case where the prosecutrix is more than 23 years of age as per the Adhar Card which has been seized from the possession of the prosecutrix. He submits that from the conduct of the prosecutrix it would reveal that she had voluntarily

consented to elope with the applicant and had willingly stayed with the applicant in a lodge at Raipur and it is only after she was caught hold by her parents, she has falsely implicated the applicant. He further submits that co-accused Durgesh Madeshiya has already been enlarged by this Court in MCRC No. 7594 of 2018 vide order dated 29.10.2018. Thus, prayed for grant of bail to the applicant.

4. State counsel, however, opposing the bail application submits that on the date of incident, the prosecutrix was a minor aged about 17 years. He submits that it is a case where the applicant, on the pretext of marriage, took the prosecutrix from her house to different locations and in the course is said to have had physical relationship with her. Therefore, the applicant does not deserve to be released on bail.

5. Having heard the contentions put forth on either side and on perusal of the record, particularly taking note of the statement of the prosecutrix under Section 164 CrPC and also her age who is more than 17 years, even if the contention of the prosecution is accepted though according to the Adhar Card she is a major, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

6. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will 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 before the said Court as and when directed.

**Sd/-
(P. Sam Koshy)
Judge**