

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5657 of 2019**

- Toman Mahilange S/o Late Manmohan Mahilange Aged About 22 Years R/o Village- Mohtara, Police Station- Saja, District- Bemetara, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station - Saja, District- Bemetara, Chhattisgarh.

---- Respondent

For Applicant : Shri Rakesh Pandey, Advocate.
For Respondent/State : Shri Amit Verma, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**05/11/2019**

1. The Applicant has preferred this third bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 54/2019, registered at Police Station – Saja, District Bemetara, (C.G.) for the offence punishable under Sections 363, 366, 376, 506 of IPC and Section 3,4, 5(L), 6 of POCSO Act.
2. First bail application of the Applicant was earlier dismissed as withdrawn with liberty to file afresh after examination of the prosecutrix before trial Court vide order dated 07.05.2019 passed in MCRC No. 2866/2019 whereas second bail application of the Applicant was dismissed as withdrawn vide order dated 05.08.2019 passed in MCRC No. 4306/2019.
3. As per the prosecution story, at the time of incident age of the prosecutrix was about 17 years and 7 months. Allegedly, Applicant on the pretext of marriage, abducted the prosecutrix and took her with him to other village and committed sexual intercourse with her. On 08.02.2019, report was lodged by father of the prosecutrix and initially

offence under Section 363 and 366 of I.P.C. was registered. During course of investigation on 13.02.2019, prosecutrix was recovered and thereafter, her statement was recorded. On the basis of her statement, offence has been registered. Applicant has been taken into custody on 05.03.2019.

4. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. He further states that there was love relationship between the Applicant and the prosecutrix and due to that prosecutrix herself left her house on her own will. There is nothing on record which can establish that at the time of incident, age of prosecutrix was below 18 years. Therefore, no offence can be made out against Applicant. He further submits that, prosecutrix has already been examined before trial Court and from her statement, it seems that prosecutrix herself was a consenting party. The Applicant is in custody since 05.03.2019 and trial will take time. Therefore, he may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties and perused the case diary as well as the statement of the prosecutrix recorded before trial Court.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that though prosecutrix in her Court statements has admitted the fact that there was love relationship between her and Applicant, but considering the fact that at the time of incident, age of the prosecutrix was below 18 years, I am not inclined to release the Applicant on bail.
8. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)
Judge