

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 16-09-2020Order delivered on 23-09-2020MCRC No. 7882 of 2019

1. Hari Ekka S/o Agar Sai Aged About 32 Years R/o Village Khala, Police Station Darima, Tahsil Ambikapur District Surguja Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station Darima, District Surguja Chhattisgarh

---- Respondent

For Applicant

Mr. Amarnath Pandey, Advocate

For Respondent /State

Mr. K.K. Singh, Govt. Advocate

(Proceedings through Video Conferencing)Hon'ble Mr. Justice Prashant Kumar MishraOrder On Board

1. Heard.
2. The applicant has preferred this first bail application under Section 439 of CrPC, as he is arrested in connection with Crime No.135/2015, registered at Police

Station Darima, Distt. Surguja (CG), for the offence punishable under Section 363, 366, 376/34 of the Indian Penal Code and Section 5(3), 6, 17 of the Protection of Children from Sexual Offences Act, 2012.

3. Applicant has allegedly abducted the prosecutrix and committed sexual intercourse on promise to marry.
4. It is argued that in her deposition recorded before the trial Court the prosecutrix is stated her age to be 18 years and has also admitted that she had gone willingly with the applicant, therefore, he is entitled for bail. It also argued that the applicant is in detention since 26-7-2019 and the trial is not likely to conclude at an early date, therefore, he is entitled for bail on this ground also.
5. Learned State counsel, while opposing the bail application, would submit that as per the *dakhil kharij register*, the prosecutrix was born in the month of July, 1999 therefore, as on the date of offence i.e. 1-11-2015 she was less than 18 years of age.
6. The present is not a case of an affair between the applicant and the prosecutrix, but the applicant has abducted the prosecutrix on promise to marry; kept her for three days in his house; and committed forcible sexual intercourse.
7. True it is that in her deposition she is making inconsistent statement in the Court, but in para 4 of her statement she mentions her age to be 16 years and the applicant committed forcible sexual intercourse on promise to

marry, despite the fact that she had informed him that she did not want to marry him.

8. Considering the seriousness of the offence and the nature of evidence available on record, this Court is not inclined to grant bail to the applicant.
9. Accordingly, the bail application is rejected.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri