

(2018) 06 CHH CK 0125

Chhattisgarh High Court**Case No:** Miscellaneous Criminal Case (MCRC) No. 3403 Of 2018

Raju Bhuiya

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: June 25, 2018**Acts Referred:**

- Indian Penal Code, 1860 - Section 363, 366 (A), 376
- Code Of Criminal Procedure, 1973 - Section 164
- Protection Of Children From Sexual Offences Act, 2012 - Section 5(L), 6

Hon'ble Judges: P. Sam Koshy, J**Bench:** Single Bench**Advocate:** Sharmila Singhai, Shashank Thakur**Final Decision:** Allowed

Judgement

P. Sam Koshy, J

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 23.11.2017 in connection with Crime No. 59 of 2016

registered at Police Station Parpodi, Distt. Bemetara, for the offence punishable under Sections 363, 366 (A), 376 IPC and Sections 5(L) and 6 of the

POCSO Act.

2. As per prosecution case, the applicant is said to have abducted the prosecutrix, a minor girl, and have kept her in confinement without consent of

her parents and have had physical relationship with the prosecutrix for a considerable period of time.

3. Learned Counsel for the applicant submits that a plain reading of the statement of the prosecutrix under Section 164 CrPC would reveal that there

is a clear case of consent by the prosecutrix and that she was voluntarily gone along with the applicant. There is no sufficient proof available in the case diary to also establish the fact that the prosecutrix is a minor and that the version of the prosecution so far as prosecutrix being minor cannot be held to be conclusive or authentic. Thus, prayed that the present applicant be released on bail.

4. The State counsel opposing the application submits that the prosecutrix was a minor on the date of incident and irrespective of whether she is a consenting party, the fact that she is a minor would dis-entitle the applicant from any bail. Thus, prayed for rejection of bail.

5. Without commenting on merits, considering the totality of the facts and circumstances of the case particularly taking note of the statement of the prosecutrix wherein she has categorically stated of having voluntarily gone along with the applicant and also taking note of the age of the prosecutrix as also that of applicant, this Court is of the opinion that the present is a fit case where the Applicant can be enlarged on bail.

6. Accordingly, the application for grant of bail is allowed. It is directed that the Applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.20,000/- with one surety of the like sum to the satisfaction of the concerned Trial Court for his appearance as and when directed.