

(2016) 11 RAJ CK 0036

RAJASTHAN HIGH COURT

Case No: Criminal Misc. Bail No. 9056 of 2016.

Chotu Keer S/o Sh. Ratan Keer,
aged about 22 years, R/o
Narayanpura, Bilia, P.S.
Hameergarh District Bhilwara.
(Presently lodged in District Jail,
Bhilwara) - Petitioner @HASH
The State of Rajasthan

APPELLANT

Vs

RESPONDENT

Date of Decision: Nov. 18, 2016

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 439
- Penal Code, 1860 (IPC) - Section 363, Section 366A, Section 376
- Protection of Children from Sexual Offences Act, 2012 - Section 3, Section 4

Citation: (2016) 4 CriLR 2013

Hon'ble Judges: Vijay Bishnoi, J.

Bench: Single Bench

Advocate: Mr. N.K. Rastogi, Advocate, for the Petitioner; Mr. Pankaj Awasthi, Public Prosecutor, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Mr. Vijay Bishnoi, J. - Heard learned counsel for the petitioner as well as learned Public Prosecutor and also perused the material on record.

2. The petitioner has been arrested in FIR No. 65/2016 of Police Station Hamirgarh, for the offences punishable under Sections 363, 366A, 376 IPC and Section 3/4 of POCSO Act. He has preferred this bail application under Section 439 Cr.P.C.

3. Learned counsel for the petitioner has submitted that prosecutrix in her statement recorded under section 161 Cr.P.C. has stated that the petitioner has committed sexual assault upon her five to six months back, however no complaint was filed by the prosecutrix or her relatives regarding the said incident. It is also contended that the prosecutrix eloped with the petitioner on 13.05.2016 and thereafter stayed with him at several places such as Bhilwara, Vijaynagar, Ajmer and Nasirabad, however, she did not complain to anybody. It is contended that from this fact itself, it is clear that the relations between the petitioner and prosecutrix were consensual. It is also argued that the police has collected contradictory documentary evidence regarding the age of the prosecutrix. It is contended that in mark sheet of the prosecutrix issued by the Upper Primary School Bilia, the age of the prosecutrix is shown as 5.7.2000 whereas in the certificate given by the Head Master of the same school on 3.6.2016, the date of birth of the prosecutrix is shown as 5.7.1998. Learned counsel for the petitioner has submitted that no definite evidence regarding the age of the prosecutrix has been collected by the police.

4. Learned Public Prosecutor has opposed the bail application.

5. Having regard to the totality of the facts and circumstances of the case, without expressing any opinion on the merits of the case, I deem it just and proper to grant bail to the accused petitioner under Section 439 Cr.P.C.

Accordingly, this bail application filed under Section 439 Cr.P.C. is allowed and it is directed that petitioner Chotu S/o Sh. Ratan Keer shall be released on bail in connection with FIR No. 65/2016 of Police Station Hamirgarh, provided he executes a personal bond in a sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.