

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.510 of 2015**

Tanmay Hanumanta, aged 19 years, S/o Shri Sanjay Kumar Hanumanta, R/o Shivanand Nagar, Sector-8, Shri Nagar, Khamtarai, Raipur, Police Station Khamtarai, Tahsil and District Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh through Police Station Khamtarai, Tahsil and District Raipur Chhattisgarh.

---- Respondent

For Applicant	:	Shri Kishore Bhaduri, Advocate
For Respondent/State	:	Shri R. K. Gupta, Dy.A.G.

Order On Board**03/07/2015**

The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.201/2015, registered at Police Station–Khamtarai, Tahsil and District Raipur Chhattisgarh for alleged commission of offence under Sections 376, 417, 193 of IPC.

2. Case of the prosecution is that the applicant, concealing his actual date of birth, married with the prosecutrix and committed rape on the prosecutrix.

3. Learned counsel for the applicant submits that the registration of offence against the applicant is false implication at the instance of the parents of the prosecutrix. It is argued that the applicant and the prosecutrix had an affair and married. Thereafter, the prosecutrix was forcibly removed from the custody of the applicant and then false report has been lodged and the prosecutrix herself has not made any allegation of rape by the applicant and she has admitted that they had married and thereafter lived as husband and wife. He also submits that according to own declaration, the prosecutrix is more than 18 years of age.

4. On the other hand, learned State counsel submits that the applicant married with the prosecutrix concealing his actual date of birth and thereafter committed sexual intercourse with her. He also submits that the act of the applicant would come within the definition of rape under Section 375 of IPC.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the contents of FIR and the stand taken by the prosecutrix that she is more than 18 years of age and she herself has stated that the marriage was solemnized and thereafter lived with the applicant as husband and wife, the application is allowed.

6. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond for a sum of Rs.20,000/ with one surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

- (I) he shall make himself available for interrogation by a police officer as and when required;
- (ii) he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, *and*
- (iii) he shall cooperate with the investigation as and when he is called.

Sd/-
Manindra Mohan Shrivastava
JUDGE