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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C No. 5556 of 2015**

Vijendra Bharti, son of Shri Dev Narayan Bharti (Bhardwaj), aged about 21 years, resident of village Belha, P.S. Shivrinarayan, Tahsil Pamgarh, Civil & Revenue District Janjgir-Champa (C.G.)

---- Applicant

Versus

State Of Chhattisgarh, Through: Station House Officer, Police Station Vidhan Sabha, Raipur, Civil & Revenue District Raipur (C.G.)

---- Non-applicant

For Applicants:	Shri Indra Sen Sahu, Advocate
For Respondent/State:	Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****13/10/2015**

Heard.

(1) The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 135/2014 registered at Police Station Vidhan Sabha, Raipur for the offences punishable under Sections 363, 366 and 376(2) of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

(2) Case of the prosecution, in brief, is that applicant is said to have kidnapped the minor prosecutrix and committed sexual intercourse with her against her will and thereby committed the aforesaid offences.

(3) Counsel for the applicant submits that applicant has already married with the prosecutrix and they were living together as husband & wife, the prosecutrix is also carrying pregnancy of few months, and

the prosecutrix, in her statements recorded under Sections 161 & 164 of the Code of Criminal Procedure, has clearly stated that she has voluntarily gone with the applicant and married with him. He further submits that an affidavit has been filed by the prosecutrix before this Court stating that she has married with the applicant on her own will. He also submits that there is variation regarding date of birth of the prosecutrix in the school leaving certificate and Dakhil Kharij Register and there is delay of 21 days in lodging the First information report and, therefore, the applicant may be released on bail.

(4) On the other hand, counsel for the State opposes the bail application.

(5) According to the prosecution, age of the prosecutrix is 14 years as her date of birth is 17.8.2000 and the date of offence is 14.07.2014, and, as such, the prosecutrix was less than 18 years of age on the date of offence; applicant has filed affidavit of complainant regarding allegation of rape, which amounts to tempering the prosecution witnesses and, as such, it cannot be a ground for granting bail and, therefore, *prima facie*, the prosecutrix was less than 18 years of age on the date of offence and the applicant is said to have committed sexual intercourse with the prosecutrix, I am not inclined to release the applicant on bail. Thus, the bail application is rejected.

Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-