

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2485 of 2016**

Birbal @ Shivshankar Yadav S/O Gomti Yadav Aged About 30 Years R/O
Gaybuda, P.S. Bagicha District Jashpur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through S.H.O., P.S. Bagicha, District Jashpur,
Chhattisgarh.

---- Non-applicant

Applicant by

Mr. Awadh Tripathi, Advocate.

Non-applicant/State by

Mr. Dhiraj Wankhede, Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****31-5-2016**

Heard.

The applicant has been arrested on 22-1-2016 in connection with Crime No. 156/2016 registered in Police Station Bagicha, Distt. Jashpur for offence punishable under Sections 363(A), 342 and 376 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offence Act, 2012.

Case of the prosecution is that the applicant enticed and thereafter kidnapped the minor prosecutrix. It is also alleged that thereafter she was subjected to sexual intercourse by him.

Learned counsel for the applicant submits that it is a case of false implication. The girl has been examined before the Magistrate under Section 164 of the Cr.P.C. wherein she has denied that sexual intercourse has been committed with her. She has stated that on the pressure exerted by her family members, a false report in her name was got registered against the applicant and the applicant has not committed any sexual intercourse with her.

On the other hand, learned counsel for the State opposes the prayer for grant of bail and submits that in the FIR and diary statement, it has been clearly stated that sexual intercourse was committed though prosecutrix states that she has affair with the applicant therefore consent has no consequence.

Taking into consideration the submission that in the statement under Section 164 of the Cr.P.C. recorded before the Magistrate, the complainant has denied that any sexual intercourse was committed with her by the applicant and that she was

pressurized to lodge a false report against the applicant, investigation is complete and charge sheet has been filed, this court is of the opinion that present is a fit case in which the applicant should be enlarged on regular bail. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs. 10,000/- with two local sureties in the like sum to the satisfaction of the concerned trial court for his appearance as and when directed.

Sd/-

Manindra Mohan Shrivastava
Vacation Judge