

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6314 of 2016**

- Rishi Koshle S/o Ramlochan Koshle Aged About 19 Years R/o Daija, Police Station - Takhatpur, District - Bilaspur Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through, Police Station - Takhatpur, District - Bilaspur Chhattisgarh

---- Respondent

For Petitioner	:	Shri Yogeshwar Sharma, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.GA

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****17/10/2016**

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.205/2013 registered at Police Station Takhatpur, District Bilaspur for the offence punishable under Section 363, 363/34, 366 & 376 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 24-03-2014.

3. Case of the prosecution is that the applicant kidnapped the prosecutrix who was minor and thereafter, it is alleged that she was taken to Korba, where she was subjected to rape by the applicant.

4. Learned counsel for applicant submits that even according to the statement of the prosecutrix recorded under Section 161 & 164 Cr.P.C., she had gone along with the applicant of her own being affair with him. It is further submitted that the prosecutrix not only went along with the applicant but also, they have performed marriage in a temple at Korba, and thereafter, started

living as husband and wife. It is next submitted that the FIR was lodged long after the marriage between the parties. It is also submitted that even according to the charge sheet, ossification test shows the age of the prosecutrix approximately 19 years of age, therefore, no case is made out.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that according to school records, age of the prosecutrix is 16 years, in these circumstances, a prima facie case is made out against the applicant.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 161/164 of Cr.P.C. and that the allegation on applicant having kept the prosecutrix as wife, is after their marriage solemnized in temple and further that ossification test shows the age of the prosecutrix 19 years and that the applicant is in jail since 24-03-2014, investigation is complete and charge sheet has been filed, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court. He shall appear before the trial Court regularly on each and every date, unless exempted.

SD/-

(**Manindra Mohan Shrivastava**)

J U D G E