

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6392 of 2016

Rajesh Vaishnav S/o Krishna Kumar Vaishnav Aged About 22 Years R/o Village-Bidora, Thana- Sahaspur Lohara, District- Kabeerdham, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Thana- Saja, District Bemetara, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Samir Singh, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/10/2016

Heard.

1. The applicant is arrested in connection with Crime No. 205 of 2016 registered in Police Station- Saja, District- Bemetara, for the alleged commission of offence under Sections 363, 366-A, 376 IPC and Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped the prosecutrix and thereafter solemnized marriage and committed rape.
3. Learned counsel for the applicant submits that the girl herself has stated that the applicant and the girl solemnized marriage in a temple and the statement regarding sexual intercourse is only after performing marriage. Therefore, it is a case of exception engrafted under Section 375 IPC. The girl in her statement under Section 164 Cr.P.C. has clearly stated that she had gone along with the applicant of her own wish and she was never subjected to any forcible act by the applicant. She being about 17 years of age, no case is made out against the applicant of commission of offence under Section 376 IPC.

4. On the other hand, learned counsel for the State has opposed the bail application and submitted that looking to the age of the prosecutrix which is about 16 years and 8 months, a prima facie case of commission of offence under Section 363, 366 and 376 IPC is made out.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the statement of the girl recorded both under Sections 161 & 164 Cr.PC. and that she is stated to be 16 years and 8 months of age and that according to her own statement, performance of sexual intercourse is after marriage between the parties and further considering that investigation is complete, charge sheet is filed, the application is allowed.
6. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (ii) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge