

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6518 of 2016

Lal Singh Nishad S/o Shri Krishna Singh Nishad Aged About 21
Years R/o Village Jevari, Police Station & Tehsil Bemetara, Civil &
Revenue District Bemetara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Bemetara, District Bemetara, Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Sharmila Singhai, Advocate
For State/Respondent	:	Mr. Chandresh Shrivastava, Panel Lawyer

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

Order On Board

24/10/2016

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.193/2016 registered at Police Station Bemetara, District Bemetara for the offence punishable under Sections 363, 366, 376 of the IPC and Sections 4, 5 (L) & 6 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 25-07-2016.
2. Case of the prosecution is that the applicant kidnapped the minor and thereafter, she was taken to another station and rape was committed on her.
3. Learned counsel for the applicant submits that in the present case, offence under Section 376 of IPC is not made out because the applicant and the prosecutrix were in affair, they had gone together and thereafter prosecutrix married the applicant. It is submitted that in her statement under Section 164 Cr.P.C., she has stated that the applicant and the

prosecutrix started living as husband wife after marriage, therefore, in view of exception to Section 375 IPC, offence under Section 376 is not made out.

4. Per contra, learned State counsel opposes the prayer for grant of bail, and submits that prosecutrix is less than 18 years of age, offences under Section 366 and 376 of IPC is clearly made out.

5. Taking into consideration the submission of learned counsel for the applicant, particularly statement of prosecutrix that the prosecutrix had gone along with the applicant voluntarily and thereafter performed marriage and that the allegation of sexual intercourse is subsequent to performance of marriage between the parties and the fact that the investigation is complete and the charge-sheet has already been filed, I am inclined to release the applicant on bail.

6. 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.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha