

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6453 of 2016**

- Kamalnarayan S/o Bhukhan Ram Rai Aged About 21 Years R/o Village Kewtara, Police Station Kharora, District Raipur, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Anil Gulati, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****18/10/2016**

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.78/2016 registered at Police Station Simga, District Baloda Bazar-Bhatapara for the offence punishable under Section 363, 366 of IPC and Section 16 & 17 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 23-09-2016.

3. Case of the prosecution is that the applicant kidnapped the prosecutrix and at that time, she was minor and thereafter, it is alleged that she was taken to different places.

4. Learned counsel for applicant submits that as far as allegation of kidnapping is concerned, that is exaggerated. Even according to the statement of the prosecutrix recorded under Section 161 Cr.P.C., the applicant and the prosecutrix were in affair and the prosecutrix has clearly stated that after she become major, the applicant and the prosecutrix performed marriage and

thereafter, started living as husband and wife. The prosecutrix has also clearly stated that after performing marriage, the applicant committed sexual intercourse with her. It is lastly submitted that in these circumstances, when statement of prosecutrix has already been recorded on the basis of material collected by the prosecution, further detention of the applicant is not necessary for completion of investigation.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that according to material collected by the prosecution on the date when the prosecutrix had gone along with the applicant, she was less than 18 years of age and later on, after attaining majority, marriage was performed with the applicant, therefore, 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 of Cr.P.C. and that there is no allegation against the applicant regarding commission of sexual intercourse with the prosecutrix prior to marriage and that further detention of the applicant is not necessary for completion of investigation, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- 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