

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.6720 of 2016

- Jasbir @ Sonu Bargah S/o Tapu Ram Aged About 19 Years R/o Pendrakhi, Police Station Jainagar, District Surajpur, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Lakhanpur, District Surguja, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Jitendra Shrivastava, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

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

Order On Board

22/12/2016

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.167/2016 registered at Police Station Lakhanpur, District Surguja for the offence punishable under Section 341, 342, 363, 366(क), 376 of IPC and Section 5 (ब) & 6 of the Protection of Children from Sexual Offences Act, 2012.

3. Case of the prosecution is that the applicant has kidnapped and thereafter committed rape on the the prosecutrix, who is less than 18 years of age.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated. It is submitted that statement of the prosecutrix recorded under Section 164 Cr.P.C. clearly shows that the prosecutrix and the applicant were in affair and both of them had married also. He next submitted that according to the prosecutrix, false report has been lodged against the applicant because the applicant and the prosecutrix belonged to different caste and their family members are not accepting the marriage. It is also stated in the statement of the prosecutrix that she was not subjected to rape by the applicant

and also does not want to take any action against him.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that at present, there are different statements recorded under Section 161 & 164 Cr.P.C. and it would be a matter of trial and looking to the nature and gravity of allegation and that the prosecutrix is less than 18 years of age, the applicant may not be granted bail.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C., which discloses that no sexual intercourse was committed by the present applicant and further that the prosecutrix and the applicant were in affair and marriage was also performed, 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