

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7267 of 2016**

- Deepak Pandey S/o Premkumar Pandey Aged About 28 Years R/o Village Dulhai, Police Station Bhouti, Tahsil Pichhour, Civil & Revenue District Shivpuri (Madhya Pradesh)

---- **Petitioner****Versus**

- State Of Chhattisgarh Through : The Police Station Patewa, Civil And Revenue District Mahasamund Chhattisgarh

---- **Respondent**

For Petitioner : Shri Punit Ruparel, Advocate
 For Respondent/State : Shri D. R. Minz, Dy.GA

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****15-11-2016**

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.147/2016 registered at Police Station Patewa, District Mahasamund for the offence punishable under Section 363, 366, 366-A & 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 07-09-2016.

3. Case of the prosecution is that the applicant along with co-accused kidnapped the prosecutrix and thereafter, it is alleged that rape was committed on her.

4. Learned counsel for applicant submits that it is a case of false implication. He further submits that the applicant and the prosecutrix were in affair and both of them had gone together voluntarily and thereafter, performed marriage and started living as husband and wife. He further submits that the prosecutrix has clearly stated regarding performance of marriage and the story that it was against her wishes, is improbable.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that on the date of commission of offence, the prosecutrix was aged 16 years and 7 months. He further submits that the prosecutrix has clearly stated that the applicant compelled to go along with him and also compelled to marry with him, therefore, prima facie case is made out against the present 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 164 of Cr.P.C. and further submission that allegation against the present applicant that he has compelled the prosecutrix to go along with him and also compelled to marry with him, are improbable and further that the allegation of sexual intercourse with the prosecutrix is only after the performance of marriage and further taking into consideration the provision contained in exception (2) of Section 375 of IPC, 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