

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7776 of 2016

Bhojram Yadav S/o Shri Duharam Yadav Aged About 21 Years R/o- Godma,
Police Station- Balco (Chowki- Rajgamar), Revenue And Civil District- Korba,
Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through- Police Station-AJJAK, District- Korba,
Chhattisgarh

---- Respondent

For Applicant	:	Shri Sandeep Dubey, Advocate
For Respondent/State	:	Shri D.R. Minj, Dy. Gov.t Advocate

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

Order On Board

05/12/2016

Heard.

1. The applicant has been arrested in connection with Crime No. 201 of 2016 registered in Police Station- AJJAK, District- Korba (C.G.) for the alleged commission of offence under Sections 363, 366 and 376 IPC, Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (v) and 3 (1) (xii) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
2. Case of the prosecution, in brief, is that the applicant kidnapped and committed rape on the prosecutrix who belongs to reserved category and therefore also committed offence under the Act of 1989.
3. Learned counsel for the applicant submits that a prima facie case of commission of offence under Section 376 IPC is not made out because even

according to the prosecutrix, at the time of alleged commission of offence, the prosecutrix was more than 16 years of age and in her statement under Section 164 Cr.P.C. she has clearly stated that she and the applicant were in affair and thereafter they performed marriage and then started living as husband and wife. He submits that as other offences are also not made out, the applicant may be granted bail.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that the prosecutrix being a minor, a prima facie case against the applicant is made out. Therefore, the applicant is not entitled for grant of bail.
5. Taking into consideration the submission made by learned counsel for the parties, particularly taking into consideration the document with regard to age of the prosecutrix wherein she has been stated to be more than 16 years of age and also her statement under Section 164 Cr.P.C. of she having performed marriage with the applicant and living also with him and submission of learned counsel for the applicant based on provision contained in exception -2 of Section 375 IPC, 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.20,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) 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