

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8132 of 2016

Krishna Verma S/o Malik Ram Verma Aged About 22 Years (Not Mention In The Impugned Rejection Order) R/o Kumhari, Near - High School, Sanjay Nagar, Kumhari, Durg, Civil And Revenue District Durg Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station Kabir Nagar, Civil And Revenue District Raipur Chhattisgarh

---- Respondent

For Applicant	:	Shri Girdhari Lal Verma, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

19/12/2016

Heard.

1. The applicant has been arrested on 24.7.2016 in connection with Crime No. 51 of 2016 registered in Police Station- Kabir Nagar, District- Raipur (C.G.) for the alleged commission of offence under Sections 363, 366, 376 (2) (a) IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped and thereafter committed rape on the prosecutrix who is stated to be less than 18 years of age.
3. Learned counsel for the applicant submits that as per the prosecutrix's own statement recorded by the Magistrate under Section 164 Cr.P.C, the prosecutrix had an affair with the applicant and both of them performed marriage on 5th July, 2016 and thereafter they started living as husband and wife and the prosecutrix also conceived child out of this wedlock. Therefore, in view of the provision contained in exception-2 to Section 375 IPC, no case of commission of offence under Section 376 IPC is made out. It is also submitted that the charge sheet

has been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses because the prosecutrix herself has stated that she is living voluntarily with the applicant.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that looking the age of the prosecutrix, consent is immaterial.
5. Taking into consideration the submission made by learned counsel for the parties, particularly taking into consideration the submission that the prosecutrix in her statement under Section 164 Cr.P.C., recorded before the Magistrate, has stated that she solemnized marriage with the applicant on 5th July, 2016 and thereafter she started living with the applicant as his wife and begotten a child and also the submission based on the provision contained in exception -2 to 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