

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.8209 of 2016

- Drona @ Suman Tiwari S/o Manoj Tiwari Aged About 18 Years 09 Months, R/o - Ward No. - 6 Gupta Mohalla Piparia Police Station - Piparia Tahsil - Kawardha, Civil & Rev. District Kabirdham Chhattigarh

---- **Petitioner**

Versus

- State Of Chhattisgarh Through - Police Station Piparia, Civil & Rev. District Kabirdham Chhattisgarh

---- **Respondent**

For Petitioner	:	Shri Dinesh Tiwari, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

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

Order On Board

19/12/2016

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.225/2015 registered at Police Station Pipariya, District Kabirdham for the offence punishable under Section 363, 366, 376 of IPC and Section 3 & 4 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.

4. Learned counsel for the applicant submits that the 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 wanted to marry. He further submits that the prosecutrix had eloped with the applicant, but she was not subjected to rape by the applicant. He lastly submits that the charge sheet has been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses. In these circumstances, learned counsel for the

applicant prayed that the applicant may be enlarged on bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that as per the school record, the age of the prosecutrix is about 15 to 16 years, therefore, prima facie case of kidnapping 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 164 Cr.P.C., which discloses that no sexual intercourse was committed by the present applicant and further that the charge sheet has been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses, 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**)

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