

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.8186 of 2016**

- Gajendra Kumar Sonwani @ Golu @ Kartik S/o Bhushan Sonwani Aged About 21 Years R/o - Devendra Nagar, Raipur, Post Office - Raipur, Police Station - Devendra Nagar, Raipur, District Raipur Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station - Ganj, District - Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Shri Shivendu Pandya, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.GA

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.99/2016 registered at Police Station Ganj, District Raipur for the offence punishable under Section 363, 376(i) of IPC and Section 4 & 5(2) of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 21-09-2016.

3. Case of the prosecution is that the applicant kidnapped and thereafter, committed rape on the prosecutrix.

4. Learned counsel for applicant submits that the applicant and the prosecutrix were in affair and had performed marriage and it is only after marriage, there were sexual intercourse between the parties. It is submitted that as per the statement of the prosecutrix recorded under Section 164 Cr.P.C. before the Magistrate, at the time of commission of offence, the prosecutrix was

aged 18 years, therefore, there is no case made out against the applicant.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that it is prima facie seen that before attaining the age of 18 years, there was sexual intercourse between the applicant and the prosecutrix and thereafter, they performed marriage and started living together.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of prosecutrix recorded under Section 164 Cr.P.C. that sexual intercourse between the applicant and the prosecutrix was only after the marriage and not before that and looking to the fact that the age of the prosecutrix was one day short of attaining the age of majority, 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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