

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2013 of 2016

Kuldeep Shrivastava S/o Vishwanath Shrivastava Aged About 20 Years R/o
- Village - Rani Bachhali, Police Chawki - Belgahna, District -
Bilaspur Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
- Kota, District - Bilaspur Chhattisgarh

---- Respondent

For applicant - Shri Anish Tiwari, Advocate.
For Respondent/State – Shri Lav Sharma, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

13/06/2016

1. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No. 276/2015 registered in Police Station Kota, District Bilaspur (C.G.) for offence punishable under sections 363, 366, 328 & 376 of Indian Penal Code, 1860 & Section 8 of the Protection of Children from Sexual Offences Act, 2012.
2. As per the prosecution case, the applicant has allured the prosecutrix, took her away from the guardianship of mother and her father and thereafter committed sexual intercourse with her. Thereby offence is committed.
3. Learned counsel for the applicant submits that as per the statement of the prosecutrix she was married to the applicant and therefore case would fall under exception 2 of Section 375 of IPC and the offence of rape is not made out. He further submits that considering the background of the case, the applicant may be released on bail.
4. Learned State counsel opposes the prayer for grant of bail.

5. I have perused the statement of the prosecutrix wherein she stated that she has performed marriage with the applicant and thereafter they had developed physical relationship. Considering the statement of the prosecutrix and the provisions of exception 2 of Section 375 of IPC, without any observation on the merits, this court is inclined to release the applicant on bail.

6. Accordingly, the bail application is allowed and it is directed that the applicant shall be released on his furnishing personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of concerned trial court for his regular appearance before it as and when directed.

Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE