

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1264 of 2016**

Mukesh Kumar Sahu, S/o Mahesh Kumar Sahu, aged about 23 years, R/o village Sakari (Java), P.S. Mandirhasod, District Raipur (C.G.)

---- Applicant**Versus**

State Of Chhattisgarh: Through : Police Station
Mandirhasod, District Raipur (C.G.)

-----Non-applicant

For Applicant: Dr. Shailesh Ahuja, Advocate.
For Respondent/State: Mr. Dhiraj Kumar Wankhede, GA

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****09/03/2016**

Heard.

(1) The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 346/2015 registered at Police Station –Mandirhasod, District Raipur for the offences punishable under Sections 363, 366 & 376 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (henceforth 'Act, 2012')

(2) Case of the prosecution, in brief, is that applicant kidnapped the minor prosecutrix and committed sexual intercourse with her against her will and thereby committed the aforesaid offences.

(3) Counsel for the applicant would submit that the prosecutrix is major and consenting party to the act of the applicant. He

would further submit that applicant has already married to the prosecutrix and they lived together as husband and wife, which is apparent from her statement recorded under Section 164 of the Code of Criminal Procedure. He would also submit that applicant is languishing in jail since 05.01.2016 and no further custodial interrogation is required and therefore, applicant is entitled to be released on bail.

(4) Per contra, counsel for the State would submit that prosecutrix was minor on the date of offence.

(5) Taking into consideration the facts and circumstances of the case, looking to the nature and gravity of offence, role of the applicant in the offence in question, further considering statement of the prosecutrix recorded under Section 164 of the Code of Criminal Procedure and the fact that applicant is in detention since 05.01.2016; this court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

(6) Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to 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/-

(Sanjay K. Agrawal)
Judge

D/-

