

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.1234 of 2016**

- Lukesh Kumar Bandhe S/o Shri Ghanshyam Bandhe Aged About 26 Years
R/o Village Pendri, Tahsil Simga, District Baloda Bazar- Bhatapara,
Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Of Police
Station Suhela, Tahsil Simga, District Baloda Bazar- Bhatapara,
Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Anil Gulati, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.G.A.

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****29/11/2016**

Heard.

2. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.22/2016, registered at Police Station–Suhela, District Baloda Bazar-Bhatapara for alleged commission of offence under Sections 363, 366 of IPC and Section 16 & 17 of the Protection of Children from Sexual Offences Act, 2012.

3. Case of the prosecution is that the applicant kidnapped the prosecutrix on 11-01-2015, on which date, she was less than 18 years of age. It is further alleged that the act of kidnapping was with a criminal intention to compel the prosecutrix to marry with the applicant. It is further alleged that after kidnapping, the applicant committed rape on the prosecutrix.

4. Learned counsel for the applicant submits that the allegations against the applicant are false and fabricated. He submits that the prosecutrix had an affair with the applicant and even according to the prosecutrix, the applicant and the prosecutrix had left their respective house on 11-01-2015 and thereafter, on 14-09-2016, the applicant performed marriage with the prosecutrix, when she

became major and thereafter, both of them are living as husband and wife and a child is also born out of their wedlock.

5. On the other hand, learned State counsel opposes the prayer for grant of bail and submits that the matter is presently under investigation. It is also submitted that prima facie, on the date, when the prosecutrix had gone along with the applicant, she was less than 18 years of age. It is also submitted that though the applicant and the prosecutrix performed marriage, after attaining majority by the prosecutrix, but that act will not absolve the applicant of his criminal liability.

6. I have perused the case diary. The prosecutrix in her statement recorded under Section 161 Cr.P.C. has stated that she had run away along with the applicant on 11-01-2015 to avoid marriage with someone against her wishes. The prosecutrix has stated that she and the applicant had an affair and when she attained majority, they performed marriage on 14-09-2016 and thereafter, they are living as husband and wife.

7. Taking into consideration the aforesaid statement of the prosecutrix and that offence under Section 363 of IPC is bailable in nature, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond for a sum of Rs.20,000/ with one local surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

- (I) he shall make himself available for interrogation by a police officer as and when required;
- (II) he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, *and*
- (III) he shall cooperate with the investigation as and when he is called.

SD/-
(**Manindra Mohan Shrivastava**)
Judge