

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6303 of 2016

Alkesh @ Animesh Manjhi S/o Shri Dhan Singh Aged About 21 Years R/o Siddharth Chowk Tikrapara Sweeper Colony Raipur, Police Station: Tikrapara, District Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Vidhansabha, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Shri C.R. Sahu, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Panel Lawyer

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

Order On Board

17/10/2016

Heard.

1. The applicant is arrested in connection with Crime No. 272 of 2015 registered in Police Station- Vidhansabha Raipur, District- Raipur, for the alleged commission of offence under Sections 363, 366, 376 (2) (i) IPC and Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped the prosecutrix who was less than 18 years of age and thereafter on a false pretext of having performed marriage, committed sexual intercourse.
3. Learned counsel for the applicant submits that the prosecution story is false and fabricated. Even according to the statement of the prosecutrix, she had an affair with the applicant and she voluntarily went along with the applicant, married in a temple and thereafter applicant and prosecutrix started living with each other as husband and wife. Learned counsel for the applicant further submits that as the prosecutrix's age was more than 15 years, performance of sexual intercourse

would not be covered by the definition of rape. It is next submitted that the investigation is complete, charge sheet has been filed and the applicant is not likely to abscond, therefore, he may be released on bail.

4. On the other hand, learned counsel for the State has opposed the bail application and submitted that according to material collected by the prosecution, the age of the prosecutrix was more than 17 years and less than 18 years on the date of incident and therefore, a prima facie case is made out.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the submission that the allegation of sexual intercourse is only after performance of marriage and that even according to the prosecution, the age of the prosecutrix is stated to be between 17 to 18 years as also taking into consideration the statement given by the prosecutrix under Section 164 Cr.P.C., the application is allowed.
6. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (ii) that the applicant shall 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/-
(**Manindra Mohan Shrivastava**)
Judge