

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5329 of 2016

Daniram Balendra S/o Mansingh Balendra, Aged About 19 Years,
Caste Halba, R/o Village Gudum, District Balod Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Of
Police Station - Dondi, District - Balod Chhattisgarh

---- Respondent

For applicant - Shri B.P. Singh, Advocate.

For Respondent/State – Shri Neeraj Sharma, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

7/09/2016

1. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No.89/2016 registered in Police Station Dondi, District-Balod (C.G.) for offence punishable under sections 363, 366(A), 376, 417 of Indian Penal Code and Section 4, 5(ठ), 6 of Protection of Children from Sexual Offences Act.
2. As per the prosecution case, a report was made by one Santram on 30/05/2016 that his daughter is missing. Subsequently, the girl was recovered on 5/06/2016 and on investigation it revealed that the applicant enticed away the girl and thereafter took her to different places and committed sexual intercourse.
3. Learned counsel for the applicant submits that initially offence under Section 366 IPC was registered, it would not fall under Section 363 IPC and there is no abduction and kidnapping, therefore offence under Section 366 IPC is not made out. Consequently, offence under Section 376 IPC is also diluted. He submits that it is intention of the legislature that if offence under section 376 IPC is charged then it is preceded by section

363 and 366 IPC, independently Section 376 IPC cannot be charged. He therefore submits that the applicant may be released on bail.

4. Learned State counsel opposes the prayer for grant of bail.

5. Perused the statement of the victim who is aged about 15 years under Section 161 and 164 of Cr.P.C. It is stated that she was subjected to sexual intercourse by the applicant on the pretext of marriage. Considering her statement and her age, this court is not inclined to release the applicant on bail.

6. Accordingly, the bail application is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE