

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6614 of 2016

Dwarika S/o Ram Sharan Satnami Aged About 22 Years R/o. Sakari, Police Station Chakarbhata, District Bilaspur Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station Chakarbhata, District Bilaspur Chhattisgarh

---- Respondent

For Applicant	:	Shri Shailendra Dubey, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Panel Lawyer

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

Order On Board

24/10/2016

Heard.

1. The applicant has been arrested in connection with Crime No. 205 of 2016 registered in Police Outpost -Sakri of Police Station- Chakarbhata, District- Bilaspur, for the alleged commission of offence under Sections 363, 366 and 376 IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped the prosecutrix and also attempted to commit sexual intercourse on her and thereby committed offence as described above.
3. Learned counsel for the applicant submits that even according to statement under Section 164 Cr.P.C. of the prosecutrix, she had an affair with the applicant. She had gone along with the applicant, resided with him and also performed marriage. It is further submitted that even according to the prosecutrix, though the applicant after having performed marriage, desired

sexual intercourse but when the prosecutrix resisted, no sexual intercourse was committed. He submits that in the absence of there being any overt act as defined under Section 7 of the POCSO Act, no prima facie case of sexual assault is made out. The applicant is in jail since 30.7.2016, investigation is complete and charge sheet has been filed, therefore, he may be released on bail.

4. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the statement given by the prosecutrix under Section 164 Cr.P.C., which does not prima facie shows commission of any sexual intercourse with the prosecutrix which is alleged to have been attempted after marriage and that the applicant is in jail since 30.7.2016, investigation is complete, charge sheet has been filed, the application is allowed.
5. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- 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