

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.8213 of 2016

- Mukesh Vivahar S/o Bachno Vivahar, Aged About 24 Years R/o Kaling Nager, Near Petrol Pump , Police Station -Gudhiyari, Raipur, Distrct Raipur, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Station -Gudhiyari,raipur,district- Raipur Chhattisgarh.

---- Respondent

For Petitioner	:	Shri L. C. Dash, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

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

Order On Board

19/12/2016

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.207/2015 registered at Police Station Gudhiyari, Raipur, District Raipur for the offence punishable under Section 363, 366, 376 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

3. Case of the prosecution is that the applicant has kidnapped and thereafter committed rape on the the prosecutrix.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. It is submitted that the prosecutrix in her statement recorded under Section 164 Cr.P.C. before the Magistrate has clearly stated that she has married with the applicant and eloped with the applicant of her own and there is no allegation of sexual intercourse against the applicant. In these circumstances, when investigation is complete, charge sheet has been filed and the applicant is not likely to abscond or tamper with the

prosecution witnesses, the applicant may be enlarged on bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that as the prosecutrix is less than 18 years of age, prima facie case is made out against the applicant.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C., in which, there is no allegation of sexual intercourse against the present applicant and considering the fact that investigation is complete, charge sheet has been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court. He shall appear before the trial Court regularly on each and every date, unless exempted.

SD/-

(**Manindra Mohan Shrivastava**)

J U D G E