

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1816 of 2017

1. Santosh Kumar Kurre S/o Shri Raja Ram Kurre, Aged About 28 Years, R/o Village, Chhuchhubhatha, Police Station Dabhara, District Janjgir Champa, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station Dabhara, District Janjgir-Champa, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Ajeet Kumar Yadav, Advocate.

For Non-applicant/State – Shri U.K.S.Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

03-04-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the prosecutrix threatened him to marry and when the applicant refused to marry she lodged the report leveling false allegation against the present applicant. The incident is of year 2014 and the FIR has been lodged on 20-12-2016 after a lapse of two years. No any mark sheet showing the date of birth of the prosecutrix is seized. As the applicant is arrested for the offence under Section 376 of the IPC read with Section 4 of Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act), charge sheet has been filed which is registered as Special S.T. No.4/2017 for Crime No.401/2016, he may be granted bail till trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that in the year 2014 the rape has been committed on the prosecutrix and there were false promise for the marriage, when the applicant denied to marry, ultimately the prosecutrix had filed written report on 20-12-2016 describing all the facts and incident. During the investigation Dakhil Kharij Register has been seized and as per the communication of the concerned Head of the school, the date of

birth of the prosecutrix is 21 August, 2000, it goes to show that she was minor at the time of incident, hence, she was not under any law to give consent for any of the act. Hence, the instant MCRC may be dismissed.

4. Perused the material.

5. On due consideration and looking to the material collected against the present applicant, I am not inclined to allow the instant MCRC. Consequently, the instant MCRC is hereby dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE