

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 780 of 2017

Vijaydas @ Lalu Mahant S/o Ganga Das Mahant, Aged About 19 Years
Occupation Labour, R/o Village Puraina, Tahsil & Police Station Kharsiya,
District Raigarh, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Kharsiya, District Raigarh,
Chhattisgarh.

---- Respondent

For Applicant	:	Shri Basant Dewangan, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

13/02/2017

Heard.

1. The applicant has been arrested in connection with Crime No.16 of 2014 registered in Police Station- Kharsiya, District-Raigarh (C.G.) for the alleged commission of offence under Sections 363, 366, 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 and thereby committed rape on the prosecutrix.
3. Learned counsel for the applicant submits that the prosecutrix in her statement recorded under Section 164 Cr.P.C. has stated that she and the applicant were in love affair and both of them started living at some other place in connection with their employment where they married and a son was also born out of their wedlock. He submits that even according to the prosecutrix, as narrated by her, she was more than 15 years of age at the time of marriage was solemnized,

sexual intercourse was committed and child was born. Therefore, the applicant may be released on bail.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that the incident is stated to be about two years old, therefore, at that time, the prosecutrix was less than 15 years of age. Therefore, the consent or marriage would not absolve the applicant of his criminal liability.
5. Having heard learned counsel for the parties, taking into consideration the prosecutrix's statement recorded under Section 164 Cr.P.C. and the submission that the age of the prosecutrix was more than 15 years of age when she solemnized marriage and sexual intercourse was committed with her and she also delivered a child and further taking into consideration that the investigation is complete, charge sheet has been filed and that the applicant is not likely to abscond or tamper with the prosecution witnesses, I am inclined to enlarge the applicant on bail.
6. The application is accordingly allowed. 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) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) 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