

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1001 of 2017

Panchuram Dhivar S/o Santosh Kumar Dhivar, Aged About 21 Years R/o Mohda, Police Chowki-Silyari, Police Station- Dharsinva, Raipur, Chhattisgarh. **---- Applicant**

Versus

State Of Chhattisgarh Through Police Station - Dharsinva, Raipur Chhattisgarh. **---- Respondent**

For Applicant	:	Shri Vikram Singh, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Panel Lawyer

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

Order On Board

21/02/2017

Heard.

1. The applicant has been arrested in connection with Crime No.462 of 2016 registered in Police Station- Dharsinva, Raipur (C.G.) for the alleged commission of offence under Sections 363, 366 376 (2) of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution is that the applicant kidnapped and committed rape on the prosecutrix, who stated to be less than 18 years of age.
3. Learned counsel for the applicant submits that the applicant has not committed any offence because the prosecutrix had an affair with the applicant and allegation of sexual intercourse is only after solemnization of marriage and as the prosecutrix is more than 15 years of age, in view of provision contained in exception 2 of Section 375 IPC, commission of offence of rape is not made out.
4. On the other hand, learned counsel for the State has opposed the application for grant of bail and submits that presently the investigation is not

complete and looking to the fact that the girl is less than 18 years of age, the applicant may not be granted bail.

5. Though, charge sheet has not filed, the statement of the prosecutrix has already been recorded by the Magistrate. The submission is that the girl had married the applicant. The girl stated to be around 17 years of age. The allegation of sexual intercourse is only after solemnization of marriage. Therefore, in view of the above, I am inclined to grant bail to the applicant. The application is allowed.
6. 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