

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.312 of 2017

- Mangal Das Mahant @ Nanhi S/o Shobhit Das Mahant, Aged About 22 Years R/o Dumarnara, Tahsil- Dharamjaigarh, District- Raigarh, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh S/o Through- In Charge Outpost Jutmil, Police Station- Kotwali, Raigarh, District- Raigarh, Chhattisgarh.

---- **Respondent**

None for the applicant.
Shri Chandresh Shrivastava, PL for Stae.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

25/01/2017

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.557/2015 registered at Outpost Jutmil, Police Station Kotwali, Raigarh for the offence punishable under Section 363, 366 & 376 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 14-07-2015.

3. Case of the prosecution is that the applicant kidnapped the prosecutrix, who is minor and committed rape on her.

4. A perusal of the bail application shows that the application has been filed on the ground that the applicant is innocent and falsely implicated as also on the ground that the applicant and the prosecutrix were having love affair since long and as the prosecutrix herself had gone along with the applicant, it is a case of consent. It has also been stated that the applicant was seriously ill and remained hospitalized on various dates between the period from 23-02-2016 to

19-12-2016. It is also the case of the applicant that the prosecution has cited 14 witnesses, out of which, only 7 prosecution witnesses has been examined and the trial is not likely to conclude early and the applicant is in jail since 14-07-2015, therefore, the applicant may be granted bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that in view of the statement of the prosecutrix recorded under Section 164 Cr.P.C., prima facie case of commission of offence of rape is made out against the applicant, because the prosecutrix has clearly stated that against her wishes and without her consent, the applicant subjected her to rape.

6. Taking into consideration the submission of learned State counsel, material on record, particularly taking into consideration the statement of the prosecutrix, this being a case of commission of heinous offence and only on the ground of delay in trial, I am not inclined to grant bail to the applicant on the ground that the applicant is in jail since 14-07-2015.

7. In the result, the application is rejected. However, the trial Court is directed to expedite the trial and conclude the same as early as possible.

SD/-

(**Manindra Mohan Shrivastava**)

J U D G E