

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 524 of 2017

Ranjit Nirala S/o Bhuvneshwar Nirala R/o Village Sakin, Semardih, Police Station Bilaigarh, District Balodabazar, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Vidhansabha, District Raipur, Chhattisgarh.

---- Respondent

Shri Prasoon Agrawal, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

30/01/2017

Heard.

The applicant has been arrested in connection with Crime No.290/2015 registered at Police Station – Vidhansabha, District - Raipur (CG) for alleged commission of offences under Section 363, 366, 376 (2) R/w Section 34 of IPC and Section 3, 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution is that the applicant kidnapped the prosecutrix and thereafter committed rape on her. The prosecutrix is stated to be less than 18 years of age.

3. Learned counsel for the applicant submits that even according to the prosecutrix, she and the applicant had affair and thereafter, they married each other also. The allegation of commission of sexual intercourse is only after solemnization of marriage and as the prosecutrix is more than 15 years, in view of provisions contained in Exception 2 of Section 375 of IPC, it cannot be said to be an offence under Section 376 IPC. It is further submitted that investigation is complete, charge sheet has been filed and the applicant is not likely to abscond or tamper

with the prosecution witnesses. Therefore, he may be granted bail.

4. On the other hand, learned State counsel opposes bail application and submits that as the age of the prosecutrix is less than 18 years, her consent is immaterial. Therefore, prima facie case is made out.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the allegation of sexual intercourse is only after solemnization of marriage and further that according to the prosecution, age of the prosecutrix was more than 15 years on the alleged date of incident and in view of provisions contained in Exception 2 of Section 375 IPC, I am inclined to grant bail to the applicant.

6. Accordingly, the application is 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 Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge