

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.719 of 2017

- Horilal Sahu @ Horijaan S/o Shatrughan Lal Sahu Aged About 32 Years
R/o Kailash Nagar, Atal Awas Colony, Block No. 06 Quarter No. G/ 32,
Jamul Bhilai, Police Station Jamul Bhilai District Durg, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through District Magistrate Durg, District Durg,
Chhattisgarh.

---- **Respondent**

For Petitioner	:	Shri Arvind Dubey, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.GA

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

14/02/2017

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.54/2016 registered at Police Station Aarkshi Kendra, Bhilai Nagar, District Durg for the offence punishable under Section 363, 366 & 376 of IPC and Section 5 & 6 of the Protection of Children from Sexual Offences Act, 2012.

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

4. Learned counsel for the applicant submits that he has been falsely implicated in the alleged commission of offence. It is submitted that the prosecutrix in her statement recorded under Section 164 Cr.P.C. before the Magistrate, has stated that her mother was compelling her to marry against her will and therefore, she ran away from the house and started living with her uncle (present applicant), except this, there is no other kind of allegation against the applicant. Therefore, it is submitted, even if the girl was less than 18 years of

age, offence under Section 363 of IPC alone could be said to be made out, which is bailable in nature.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that looking to the age of girl, prima facie case is made out against the applicant.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix under Section 164 Cr.P.C., in which, there is no mention of any rape committed on the prosecutrix or any other kind of sexual assault or harassment and that investigation is complete, charge sheet has been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of 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.

SD/-

(Manindra Mohan Shrivastava)

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