

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.874 of 2017

- Kamta Patle S/o Manas Patle, Aged About 20 Years R/o Village Neur, Police Station Nandghat, District- Bemetara, Chhattisgarh. (Details Not Mentioned In Order Sheet Completely)

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station- Amanaka, District Raipur, Chhattisgarh.

---- Respondent

For Petitioner	:	Ms. Arpana Singh, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/02/2017

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.44/2016 registered at Police Station Amanaka, District Raipur for the offence punishable under Section 363, 366 & 376 of IPC and Section 4 & 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 the prosecutrix in her statement under Section 164 Cr.P.C. has stated that she and the applicant had an affair and they eloped and thereafter, solemnized marriage in the temple. It is also submitted that the prosecutrix has denied that there was any sexual intercourse between the parties. It is lastly submitted that in these circumstances, when the investigation is complete and charge sheet has been

filed and the applicant is not likely to abscond or tamper with the prosecution witnesses, 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 consent of the prosecutrix is immaterial because prosecutrix was less than 18 years of age.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix that the applicant and the prosecutrix had an affair and solemnized marriage and further that there was no specific allegation of sexual intercourse by the applicant on the prosecutrix and that the investigation is complete and 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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