

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1256 of 2017

Meenu Sonkar S/o Dahsru Sonkar, Aged About 30 Years R/o Village Talab Para, Simga, Tahsil Simga, District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Bhatapara (Sahar), District- Baloda Bazar- Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Anil Gulati, Advocate
For Respondent/State	:	Shri Neeraj Sharma, Dy. Govt. Advocate

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

Order On Board

27/02/2017

Heard.

1. The applicant has been arrested in connection with Crime No.282 of 2014 registered in Police Station- Bhatapara (Sahar), District -Baloda Bazar, Bhatapara (C.G.) for alleged commission of offence under Sections 363, 366, 376 IPC and Section 4 & 17 of the Protection of Children for Sexual Offences Act, 2012.
2. Case of the prosecution, in brief is that the applicant kidnapped and thereafter committed rape on the prosecutrix who is stated to be less than 18 years of age.
3. Learned counsel for the applicant submits that the prosecutrix has been examined by the Magistrate under Section 164 Cr.P.C. in which she has clearly stated that she and the applicant had an affair, they performed marriage and thereafter they started living like husband and wife and a child was also born out of the wedlock, therefore, in view of the provision contained in exception-2 to Section 375 IPC, offence under Section 376 IPC would not be made out. It is next submitted that though charge sheet has not been filed, further custodial

interrogation of the applicant is not necessary and the applicant may be granted bail because he is not likely to abscond or tamper with the prosecution witnesses.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that at present, investigation is not complete and charge sheet has not been filed and, therefore, looking to the nature and gravity of allegation and the age of the prosecutrix, consent being immaterial, the applicant may not be granted bail.
5. Having considered the submissions made by learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C. and that the allegation of sexual intercourse is only after solemnization of marriage between applicant and the prosecutrix and that the prosecutrix is said to be 15 years of age on the date of solemnization of marriage and sexual intercourse thereafter and further taking into consideration that there is nothing in the diary to show that further custodial interrogation of the applicant is necessary, I am inclined to enlarge the applicant on bail.
6. The application is accordingly 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 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