

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.1655 of 2017**

- Subh Karan Kumhar S/o Awashedi Lal Kumhar, Aged About 21 Years R/o Village Funda, Police Station - Patan, , Revenue & Civil District-, Durg, Chhattisgarh - Permanent R/o Village Devra, Police Station- Mangaon, District- Riwa, Madhya Pradesh

---- Petitioner**Versus**

- State Of Chhattisgarh Through: Station House Officer, Police Station- Utai, Civil & Revenue District- Durg, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Poornendra Khichariya, Advocate
For Respondent/State	:	Shri Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****15/03/2017**

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.226/2016 registered at Police Station Utai, District Durg for the offence punishable under Section 363, 366, 376(2)(ढ) of IPC and Section 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, who is less than 18 years.

4. Learned counsel for the applicant submits that in this case, the applicant has been falsely implicated only on suspicion. It is submitted that the prosecutrix has been examined in the Court and she has not supported the prosecution case and turned hostile, therefore, at this stage, the applicant may be granted

bail as most important prosecution witnesses have already been examined.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that looking to the nature and gravity of allegation against the applicant and that many other prosecution witnesses are yet to be examined, the applicant is not entitled to bail.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the prosecutrix has already been examined and she has not supported the prosecution case and turned hostile and further that the applicant is not in a position 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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