

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1478 of 2017

Ashok Kumar Alias Balram Verma S/o Jageshwar Verma Aged About 23 Years R/o Village Sandi, Police Station & Tehsil Khairagarh District Rajnandgaon Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate Rajnandgaon Chhattisgarh

---- Respondent

Shri S.S.Baghel, counsel for the applicant/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/03/2017

Heard.

The applicant has been arrested in connection with Crime No.77/2016 registered at Police Station – Khairagarh, District - Rajnandgaon for alleged commission of offences under Section 363, 366, 376 of IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

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

3. Learned counsel for the applicant submits that the applicant has been falsely implicated. The statement of the prosecutrix under Section 164 CrPC has been recorded by the Magistrate in which it is stated that she and the applicant had an affair, they got married and after marriage, they went to Hyderabad and the allegation of sexual intercourse is only after solemnization of marriage and as the prosecutrix is more than 15 years of age, in view of provisions contained in Exception 2 of Section 375 of IPC, offence under Section 376 IPC is not made out. 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 prosecutrix is less than 18 years of age, consent is not material and looking to the nature and gravity of allegations, the applicant is not entitled to grant of bail.

5. Taking into consideration the submission based on statement of the prosecutrix under Section 164 CrPC that she and the applicant had an affair, they got married and the allegation of sexual intercourse is only after solemnization of marriage and at that time, the prosecutrix was more than 16 years of age and further submission based on provisions contained in Exception 2 of Section 375 of 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