

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 2818 of 2017

- Ishwar Charan @ Ishwar Chand @ Nanu S/o Shri Sant Ram Sarthi, Aged About 19 Years, R/o Village Kharvani Bade, Tahsil Sarangarh, Police Station Sarangarh, District Raigarh Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Sarangarh, District Raigarh Chhattisgarh

---- Non-applicant

For Applicant – Shri Sudeep Verma, Advocate.

For Non-applicant/State – Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order on Board

04-07-2017

1. Learned counsel for the applicant undertakes to file his power to represent the applicant during course of the day.
2. Heard the matter finally.
3. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.43/2017 on 16-1-2017 by P.S. Sarangarh, District Raigarh, C.G. for the offence under Section 363, 366, 376(2) of the IPC and Section 4, 6 of the Prevention of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act'). After investigation police had filed the charge sheet which is presently pending before the Additional Sessions Judge/Special Judge under the POCSO Act Sarangarh, Distt. Raigarh, C.G. as Criminal Case POCSO No.02/17. Learned counsel for the applicant would further submit that the applicant is aged about 19 years; there is no any criminal antecedent of the applicant. He is in custody since more than 6 months. The statement of the prosecutrix is not recorded under Section 164 of the Cr.P.C. The applicant will not commit any offence in future. He may be granted bail till trial.
4. Per contra, learned counsel for the State/non-applicant opposed the argument advanced on behalf of the applicant and would submit that the

prosecutrix is a child as defined under Section 2 sub-section 1(d) of the POCSO Act, she is aged about 17 years. Police had collected evidence regarding her age and on the pretext of marriage the applicant forcefully taken the prosecutrix towards forest and committed rape and also kept her during next day and committed sexual rape thrice. Police had recorded statement under Section 161 of the Cr.P.C. of the prosecutrix. Looking to the entire facts, the instant MCRC may be dismissed.

5. Perused the entire material.

6. Looking to the evidence collected by the prosecution during investigation and the facts surfaced, I am not inclined to grant bail to the applicant. Consequently, the instant MCRC is hereby dismissed.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE