

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6613 of 2017

Kushal Devar S/o Tiharu Ram Devar, Aged About 25 Years R/o Ward No. 11, Bagbahara, Police Station Bagbahara, Tahsil Bagbahra, District Mahasamund Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Bagbahra, District Mahasamund Chhattisgarh.

---- Respondent

Shri Vikash Pradhan, counsel for the Applicant/s
Ms. Sunita Jain, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/12/2017

Heard.

The applicant has been arrested in connection with Crime No.176/2017 registered at Police Station – Bagbahra, District - Mahasamund (CG) for alleged commission of offences under Section 363, 366, 376, 306 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution is that the applicant kidnapped and committed rape on the prosecutrix who was a minor.

3. Learned counsel for the applicant submits that the prosecutrix had an affair with the applicant and their parents were not agreeing and they went together and married. Later on, she was returned to her native place whereafter, she committed suicide. Learned counsel submits that before her death, the prosecutrix had given statement under Section 164 CrPC before the Magistrate which clearly shows that the prosecutrix had an affair with the applicant. It is further submitted that there is no specific allegation of having committed sexual intercourse with the prosecutrix. Therefore, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes bail application and submits that the prosecutrix was a minor. The applicant kidnapped her and committed rape on her by falsely stating that he loves the prosecutrix. Therefore, the application may be rejected.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission that the statement under Section 164 CrPC recorded before the Magistrate a day before the prosecutrix committed suicide in which she stated having a affair with the applicant and married him and there being no specific allegation of sexual intercourse between them and the probable reason for committing suicide that she was compelled to part away from the applicant, 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 furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties 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