

(2017) 05 CHH CK 0028
In the Chhattisgarh High Court
Case No : 2212 of 2017

Kulvant Sahu S/o Ramprakash Sahu

APPELLANT

Vs

The State Of Chhattisgarh

RESPONDENT

Date of Decision : 12-05-2017

Acts Referred:

Code of Criminal Procedure, 1973, Section 161, Section 164 - Examination of witnesses by police - Recording of confessions and statements
Indian Penal Code, 1860, Section 363, Section 366 - Punishment for kidnapping - Kidnapping, abducting or inducing woman to compel her marriage, etc

Citation : (2017) 05 CHH CK 0028

Hon'ble Judges : Chandra Bhushan Bajpai

Bench : Single Bench

Advocate : Vikram Singh, Sumit Jhanwar

Judgement

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 19-3-2017 in connection with Crime No. 120/2017 registered in PS Dharsinva, Distt. Raipur for offence punishable under Section 363, 366 of IPC.
3. Learned counsel for the applicant submits that after investigation, police has filed charge sheet which is pending before the JMFC, Raipur as Criminal Case No. 3693/2017. The matter is not yet committed. He further submits that though the prosecutrix is a minor as alleged but in the charge sheet no provision in relation to Protection of Children from Sexual Offences Act, 2012 (in brevity "Act of 2012") is surfaced during investigation hence police has filed the charge sheet only under Section 363 and 366 of the IPC. Though the consent of the prosecutrix cannot be lawfully accepted but looking to the facts surfaced in the statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. it goes to show the applicant had not compelled the prosecutrix for illicit marriage neither there was any act done by the applicant with the prosecutrix. The applicant is

aged about 20 years. He will not commit any offence in future. Trial may take some time. He may be granted bail till trial.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and submits that the applicant without lawful consent of the guardian of the prosecutrix had taken her with him for the purpose of illicit marriage hence instant MCRC may be dismissed.

5. Perused the entire material.

6. On due consideration, the applicant is in jail for last 1 month and 25 days, he is first offender, no any offence is committed by him in relation to Act of 2012 or any other penal act of IPC except Section 363 and 366 of the IPC, after perusal of statements of the prosecutrix under Section 161 and 164 of the Cr.P.C. and other facts, I am inclined to grant bail to the applicant. Hence MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one solvent surety of the like sum to the satisfaction of the JMFC, Raipur CG for his appearance before the said Court regularly as and when directed by the said Court.

7. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this court or the Hon''ble Apex Court intentionally, (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature: (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. CC as per rules.