

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7026 of 2016

Dharmu Das Banjare S/o Rupau Das Banjare Aged About 44 Years R/o Village Damakeda, Thana- Simga, District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station House Officer- Police Chowki-Kandsra, Thana- Bemetara, District Bemetara, Chhattisgarh.

---- Respondent

Shri Deepak Jain, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/11/2016

Heard.

The applicant has been arrested on 13/10/2016 in connection with Crime No.517/2016 registered at Police Chowki - Kandsra, Thana – Bemetara, District - Bemetara (CG) for alleged commission of offences under Section 368 of IPC and Section 17 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution is that the prosecutrix, minor in age, is subjected to rape by the co-accused – Bhola Purena. The allegation against the applicant is that the applicant is the maternal uncle of the co-accused and after the prosecutrix having been kidnapped, she was taken to the house of the applicant wherefrom, the co-accused took the prosecutrix to some other house.

3. Learned counsel for the applicant submits that the nature of allegations against the applicant do not make out a case of alleged commission of offence. He submits that the applicant has been arrested on 13/10/2016 and there is no need for further custodial interrogation of the applicant.

4. On the other hand, learned State counsel opposes prayer and submits that the statement of the prosecutrix under Section 164 CrPC shows that the co-accused

had taken the prosecutrix to the house of the applicant wherefrom, they travelled to some other house and the applicant was fully knowing that the prosecutrix has been kidnapped by his nephew. He further submits that as the investigation is not complete, charge sheet has not been filed, grant of bail to the applicant may adversely affect fair trial of the case.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that involvement of the applicant is based only on the statement that for some time, the prosecutrix and the co-accused had stayed in the house of the applicant and in the absence of anything stated by the State counsel as to why further custodial interrogation of the applicant is necessary in the pending criminal case, I am inclined to enlarge the applicant on bail.

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 fully cooperate in the ongoing investigation, appear before the police as and when directed and shall not tamper with the prosecution witnesses.

Any attempt to abscond or tamper with the prosecution witness, will render the bail granted, liable to be cancelled.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge