

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7499 of 2016**

- Arjun @ Shiv Gulab Chauhan S/o Ramayan Ram Aged About 20 Years
R/o Village - Khamhariya, Police Station - Udaypur, Revenue & Civil
District - Surguja Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through : Police Station - Udaypur, Revenue &
Civil District - Surguja Chhattisgarh

---- Respondent

For Petitioner	:	Shri S. D. Singh, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****15/12/2016**

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.86/2016 registered at Police Station Udaypur, District Surguja for the offence punishable under Section 363, 366, 376, 109, 342, 506, 368 of IPC and Section 3, 4, 16 & 17 of the Protection of Children from Sexual Offences Act, 2012. The applicant has been arrested on 19-08-2016.

3. Case of the prosecution is that the applicant kidnapped and thereafter, committed rape on the prosecutrix, who is aged 15 Year & 7 Months as per the school register.

4. Learned counsel for applicant submits that all the important prosecution witnesses have already been examined, which includes the prosecutrix herself, who has clearly stated that the applicant has not committed offence of rape or

anything with her. Therefore, in these circumstances, particularly when the prosecutrix has not supported the case of prosecution and the applicant is neither in a position to tamper with the prosecution witnesses or abscond, the applicant may be enlarged on bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that the applicant is being tried for commission of serious and grave offence. He submits that there are many other prosecution witnesses are yet to be examined, therefore, in these circumstances, the applicant is not entitled to bail.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission of learned counsel for the applicant that the prosecutrix and other witnesses have not supported the case of the prosecution regarding alleged commission of rape by the applicant with the prosecutrix and the allegations are confined only that the prosecutrix has left with the applicant and soon thereafter, she was brought back home without any other overt act committed by the applicant, any kind of sexual assault or rape and further taking into consideration that the applicant is in jail since 19-08-2016 and there is no material to show that in the event of grant of bail, he may tamper with the prosecution witnesses or likely to flee away from justice, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of 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.

Sd/-

(**Manindra Mohan Shrivastava**)

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