

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7881 of 2016

Amit Shyam Kunwar S/o Late Shyam Kunwar Aged About 27 Years R/o
House No. 565, Ward No. 2, Gandhi Nagar, Police Station Supela Bhilai,
Tahsil Durg Civil And Revenue District Durg, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station Out
Post Vaishali Nagar, Police Station Supela Bhilai, Civil And Revenue District
Durg Chhattisgarh

---- Respondent

For Applicant	:	Shri Goutam Khetrapal, Advocate
For Respondent/State	:	Shri D.R. Minj, Dy. G.A.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

15/12/2016

Heard.

The applicant has been arrested in connection with Crime No.916 of 2016 registered in Police Station- Supela Bhilai, District -Durg (C.G.) for the alleged commission of offence under Sections 363, 366 & 376 of IPC and Section 5 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution is that one of the prosecutrix was taken by the co-accused Golu and prosecutrix stayed in the house of the present applicant and it is alleged that there, co-accused Golu committed rape on the prosecutrix.

3. Learned counsel for the applicant submits that as far as the statement of two prosecutrix as recorded under Section 164 Cr.P.C. by the Magistrate, the name of the applicant, does not find place in the statement of one of the prosecutrix. The other prosecutrix has involved the applicant only to the

extent that the co-accused Golu resided in the house of the applicant where he committed sexual intercourse with the prosecutrix. There is no allegation of sexual intercourse against the applicant and the statement that the other prosecutrix clearly stated that Golu resided with the prosecutrix in the presence of elder members of the applicant by stating that the prosecutrix is related like their sister. Therefore, as far as the applicant is concerned, no case of commission of offence under Section 376 of IPC is made out and the applicant may be granted bail as he is not likely to abscond or tamper with the prosecution witnesses.

4. On the other hand, learned counsel for the State has opposed the bail application and submits that the applicant was one of the accused who along with Golu and prosecutrix was involved wherein, prosecutrix residing in the house of the applicant where Golu committed rape on her. Therefore, the applicant is also involved in the alleged offence.

5. Considering the submission of learned counsel for the parties, the role alleged to be played by the applicant and the submission with regard to likelihood of there being relation and affair between the prosecutrix and Golu, the application is allowed.

6. 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 concerned trial Court with following further conditions:

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge