

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7453 of 2016

Tikeshwar Banjare S/o Late Shiv Kumar Banjare, Aged About 22 Years R/o Village Boriya, Police Station Berla, District Bemetara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Office, Police Station Nandini, District Durg, Chhattisgarh.

---- Respondent

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MCRC No. 7497 of 2016

Rohit Banjare S/o Late Laudu Banjare Aged About 36 Years R/o Village Boriya, Police Station Berla, District Bemetara Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station Nandini, District Durg Chhattisgarh

---- Respondent

Shri Jitendra Gupta, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/11/2016

1. The aforesaid two bail applications are being disposed off by this common order as both the applications arise out of the same crime number and the applicants are accused on similar allegations.
2. The applicants are arrested in connection with Crime No.226/2016 registered at police station – Nandini, Durg (CG) for alleged commission of

offences under Section 363, 366, 368, 376/34 of IPC and Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

3. Case of the prosecution is that the applicants kidnapped minor girl and the prosecution has also alleged that she was subjected to rape.

4. Learned counsel for the applicants submits that the story of the prosecution is highly exaggerated. It is submitted that the girl had an affair with the applicant – Tikeshwar and she had voluntarily proceeded along with him. He submits that in the statement recorded under Section 164 CrPC, there are no allegations of commission of offence of rape. It is further submitted that charge sheet has already been filed and the applicants are not likely to abscond or tamper with the prosecution witnesses. Therefore, they may be granted bail.

5. On the other hand, learned State counsel opposes the bail application and submits that in view of FIR and statement of the prosecutrix under Section 164 CrPC, it is *prima facie* revealed that the minor was not only kidnapped but was also raped.

6. Taking into consideration the submission of learned counsel for the parties, statement of the prosecutrix under Section 164 CrPC, in which, there are no allegations of rape and that charge sheet has been filed and the applicants are not likely to abscond or tamper with the prosecution witness, I am inclined to grant bail to the applicants.

7. Accordingly, both the applications are allowed. It is directed that the applicants shall be released on bail on each of them 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. They 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