

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8243 of 2016

Somnath @ Som Sarathi S/o Santu Sarathi Aged About 21 Years R/o
Imalibhata Jogi Awas Q.No. 11 Police Station Sarkanda Civil & Revenue
District Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Sarkanda District Bilaspur,
Chhattisgarh.

---- Respondent

For Applicant	:	Shri P.K. Tulsyan, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

19/12/2016

Heard.

1. The applicant has been arrested on 16.10.2016 in connection with Crime No.701 of 2016 registered in Police Station- Sarkanda, District Bilaspur for the alleged commission of offence under Section 354,323 of IPC and Section 11 & 12 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution is that the applicant caught hold of the prosecutrix and gaged her mouth and pressed his neck with intent to outrage modesty.
3. Learned counsel for the applicant argued that the statement of the prosecutrix as recorded under Section 164 of Cr.P.C., even if taken own its face value, does not contain any ingredient of commission of offence under Section 354 of IPC. He submits that even according to the prosecutrix, the applicant was trying to extract from the prosecutrix, address of one Sunil and

when the prosecutrix did not inform and try to run away, the applicant caught hold of her. It is argued that in addition to what has been alleged, no other overt act was alleged to indicate that there was any intention to outrage the modesty of the prosecutrix. Therefore, in these circumstances, at the most, the allegation make out a case of commission of offence under Section 323 of IPC and nothing more.

4. On the other hand, learned counsel for the State has opposed the bail application and submits that manner in which the applicant chased the minor girl, gaged her mouth and attempt to press her neck, prima facie shows that it was intended only to outrage her modesty.

5. Having heard learned counsel for the parties, perused case diary and also the statement of prosecutrix recorded under Section 164 Cr.P.C., particularly taking into consideration the submission of learned counsel for the parties that in the statement, the background is that the applicant was trying to extract the address of one Sunil from the prosecutrix and further that the investigation is complete, charge-sheet has been filed and there is no material to show that in the event of grant of bail, the applicant is likely to abscond or tamper with the prosecution witnesses, 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