

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6710 of 2016

1. Ramunath Rathore S/o Hindunath Rathore Aged About 45 Years Caste Sanpera, R/o Jakshan Maksi Village Gadouli, District Sajapur (M.P.)
2. Smt. Jhena @ Jena Bai Nath W/o Ramunath Rathore Aged About 40 Years Caste : Sanpera R/o Jakshan Maksi Village Gadouli, District Sajapur (M.P.)

---- Applicants

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station : Chakarbhatha, District Bilaspur Chhattisgarh

---- Respondent

For Applicants	:	Shri Y.C. Sharma, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

02/11/2016

Heard.

1. The applicants have been arrested in connection with Crime No. 83 of 2016 registered in Police Station- Chakarbhatha, District- Bilaspur (C.G.) for the alleged commission of offence under Sections 363, 366, 376 read with Section 34 IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that main accused Prakash, son of the applicants, had an affair with the prosecutrix, who is stated to be 16 years of age. The allegation against the main accused- Prakash is that he had kidnapped the prosecutrix and kept her in his house along with his parents, the applicants. It is said that in his house, Prakash committed sexual intercourse with the prosecutrix. The applicants are involved as the parents of Prakash and it has been alleged that they were also fully knowing about the fact that the prosecutrix is a minor, yet they allowed her to stay with their son in the house until she went back to her parental house.

3. Learned counsel for the applicants submits that the statements of the prosecutrix recorded both under Section 161 & 164 Cr.P.C. does not show that the applicants had any intention to commit the offence. He submits that a singular instance of sexual intercourse between the prosecutrix and son of the applicants was without their knowledge and later on, the girl was sent back to her parental house. It is further submitted that in these circumstances, when the investigation is complete and charge sheet has been filed and that Prakash is being dealt with as a juvenile in conflict with law before the Juvenile Justice Board, the applicant may be granted bail.
4. On the other hand, learned counsel for the State has opposed the bail application. He submits that the applicant were fully aware of the minor age of the prosecutrix, yet they allowed her to live with her son until she was sent back to her parental house. Therefore, the applicants are also equally involved in the commission of offence along with the main accused-Prakash.
5. Taking into consideration the submissions made by learned counsel for the parties, taking into consideration the totality of the circumstances and that allegation of sexual intercourse is against co-accused Prakash and the prosecutrix in her statement under Section 164 Cr.P.C. has stated that she was sent back to her parental house by the applicants, whereafter report was lodged, the application is allowed.
6. 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 concerned trial Court with following further conditions:
 - (i) The applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge