

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7535 of 2016

Avinash Yadav S/o Chaitram Yadav Aged About 21 Years R/o Village Basni,
Police Station & District Bemetara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Bemetara, District Bemetara,
Chhattisgarh.

---- Respondent

For Applicant	:	Shri Vaibhav Goverdhan, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

29/11/2016

Heard.

1. The applicant has been arrested in connection with Crime No. 496 of 2016 registered in Police Station- Bemetara, District- Bemetara (C.G.) for the alleged commission of offence under Sections 363, 366 & 376 IPC and Sections 4, 5 (ब),6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped the prosecutrix and thereafter took her to different stations and it is alleged that during that period, the applicant committed rape on the prosecutrix.
3. Learned counsel for the applicant submits that the allegation against the applicant are false and exaggerated because the prosecutrix who has been examined under Section 164 CR.P.C. before the Magistrate has not stated regarding commission of any offence of rape and the only allegation is of kidnapping. The investigation is complete and charge sheet has been filed and the applicant is not likely to abscond, therefore, he may be released on bail.
4. On the other hand, learned counsel for the State has opposed the bail

application. He submits that in the FIR as also diary statement, the allegation of commission of rape is there. Therefore, in these circumstances, looking to the nature and gravity of offence, the applicant is not entitled to be released.

5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C., wherein there is no allegation of commission of rape and further taking into consideration that the investigation is complete and charge sheet has been filed, 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