

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5491 of 2017

Avinash @ Golu S/o Ramadhaar, Aged About 25 Years Caste Ghasiya, R/o Choti Bazar, Ward No. 24, Kapoor Singh Dafai, P. S. Chirmiri, District Koriya, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through S. H. O. Police Station Chirmiri, District Koriya, Chhattisgarh.

---- Respondent

And

MCRC No. 5522 Of 2017

Govind Kumar Tandon @ Golu S/o Shri Krishnachandra, Aged About 21 Years R/o Chhoti Bazar Dalganjan Dafai, Police Station Chirmiri, District Korea, Chhattisgarh.

---- Applicant

Vs

State Of Chhattisgarh Through Station House Officer, Police Of Police Station Chirmiri, District Korea, Chhattisgarh.

---- Respondent

For respective Applicants : Shri Pushkar Sinha and Shri Anil Gulati, Advocates
For State : Shri Chandresh Shrivastava, Panel Lawyer

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

Order On Board

22/11/2017

Heard.

1. MCRC No.5491 of 2017 and MCRC No.5522 of 2017 are being disposed off by this common order as both the bail applications arise out of Crime No.135 of 2017 registered in Police Station- Chirmiri, District- Koriya (C.G.) for alleged commission of offence under Sections 363, 366, 376, 368 IPC and Section 4,

6 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution, in brief, is that the applicants kidnapped the prosecutrix and one of the accused/applicant Govind Kumar Tandon committed rape on the prosecutrix.
3. Learned counsel for the applicants would submit that the applicants have been falsely implicated. The prosecutrix in her statement under Section 164 Cr.P.C before the Magistrate has not supported the case of the persecution in so far as allegation of commission of rape is concerned. Learned counsel for the applicants would further submit that even if the girl's age is found to be minor, at the most, offence under Section 363 IPC would be made out, which is bailable in nature.
4. On the other hand, learned counsel for the State, opposing the bail applications, submits that looking to the nature and gravity of allegation and that the prosecutrix being a minor, the applicants are not entitled to grant of bail.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly the submission of learned counsel for the applicants that the prosecutrix has not made any allegation of commission of rape against the applicants and that offence under Section 363 IPC is bailable in nature, both the applications are 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.25,000/- 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