

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8185 of 2016

1. Mukesh Deshlahre S/o Shankar Deshlahre, Aged About 19 Years R/o Sanjay Nagar Ward No. 6, Kumhari Bhilai District Durg, Civil & Revenue District Durg, Chhattisgarh.
2. Akshay Dahriya, S/o Raju Dahariya, Aged About 19 Years R/o Satya Chowk Kumhari, Ward No. 01 District Durg, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Khursipar (Bhilai), District Durg, Chhattisgarh.

---- Respondent

For Applicants	:	Shri A. C. Sahu, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

02/01/2017

Heard.

1. The applicants have been arrested in connection with Crime No. 271 of 2016 registered in Police Station- Kumhari (Bhilai), District-Durg (C.G.) for the alleged commission of offence under Sections 363, 354 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicants outraged modesty and also committed act of sexual assault on the prosecutrix who is a minor, stated to be 13 years of age.
3. Learned counsel for the applicants submits that the allegation against the applicants are deliberate falsehood and fabricated which is clear from the prosecutrix's statement recorded by the Magistrate under Section 164 Cr.P.C. wherein the prosecutrix has very clearly stated that she had an affair with the

applicant- Akshay and the applicant had done nothing except helping her to ride a motorcycle. Therefore, the applicants 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 and statement under Section 161 Cr.P.C., there are allegations against the applicants and, therefore, at this stage, a prima facie case is made out because the prosecutrix is a minor in age.
5. Considering 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 she has denied that she was subjected to any act of outraging her modesty or sexual assault and further considering that the investigation is complete, charge sheet has been filed and there is no likely to abscond or tamper with the prosecution witnesses, I am inclined to allow the application.
6. The application is accordingly 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 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