

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1314 of 2016

Smt. Minakshi Arya W/o Kamlesh Sahu Aged About 35 Years R/o Infront Of
Gayatri Mandir, Sivali Chal, Police Station Dondi Lohara, Tahsil And District
Balod Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : The Station House Officer, Police Station Dondi
Lohara, Tahsil And District Balod Chhattisgarh

---- Respondent

For Applicant	:	Shri Uttam Pandey, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Panel Lawyer

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

Order On Board

09/01/2017

Heard.

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending her arrest in connection with Crime No.250/2016, registered in Police Station- Dondi Lohara, Tahsil and District- Balod, for alleged commission of offence under Section 75 of the Juvenile Justice (Care & Protection of Children Act, 2015 (hereinafter referred to as "*the Act of 2015*")
2. Case of the prosecution, in brief, is that the custody of juvenile was entrusted by the applicant, the mother, to her sister/co-accused Rajini Gayakwad and it is alleged that during the period the juvenile was in the custody of his aunt, he was subjected to cruelty, beating resulting in various injuries.

3. Learned counsel for the applicant submits that the applicant is the mother of the juvenile. She had a dispute with her husband and cases were going on. During this period, in order to protect her child from any impact of disputes between husband and wife, the applicant had bonafide left her son in the custody of her sister with the hope that she will properly maintain her child but later on, she came to know that her sister had beaten up her son. There are no allegations that the applicant subjected her own son with cruelty. The allegations that at times, the applicant used to punish her son for certain mistakes, is outside the purview of cruelty as defined under Section 75 of the Act of 2015 and in the present case, except mother teaching her son correct and proper lesson for mistakes, no serious allegation are against the present applicant. Therefore, in these circumstance, the applicant may be protected.
4. On the other hand, learned counsel for the State submits that though the allegation of beating-up and causing injury to juvenile are against the aunt of the juvenile, juvenile has stated in his statement that the cruelty was meted out to him by her aunt only when his mother left him in the custody of his aunt. He further submits that juvenile has also stated at times, he also used to be beaten up by her mother.
5. Taking into consideration the submissions made by learned counsel for the parties, considering the totality of the circumstances and the nature of allegation against the applicant and further taking into consideration that the allegation of causing injury to the juvenile is only against her aunt, I am inclined to allow the application.
6. The application is accordingly allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the arresting officer on her 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 arresting officer with following further conditions that:
 - (i) the applicant shall make herself available for interrogation by the police officer as and when required;
 - (ii) the applicant shall not, directly or indirectly, make any inducement, threat

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or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen