

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8342 of 2016

Sourabh Nirmalkar S/o Radheshyam Nirmalkar, Aged About 19 Years R/o Ramantola, Mahasamund, Police Station, & Tahsil- Mahasamund, District- Mahasamund Chhattiagarh.

---- Applicant

Versus

State Of Chhattisgarh Through: Station House Officer, Police Station , Mahasamund, District- Mahasamund , Chhattisgarh.

---- Respondent

For Applicant	:	Shri Vikash Pradhan, 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 applicant has been arrested in connection with Crime No. 510 of 2016 registered in Police Station- Mahasamund, District-Mahasamund (C.G.) for the alleged commission of offence under Sections 363, 366 & 376 IPC, Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (v) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989.
2. Case of the prosecution, in brief, is that the applicant kidnapped and committed rape on the prosecutrix stated to be a minor aged less than 18 years.
3. Learned counsel for the applicant submits that a false and fabricated case has been made out against the applicant in relation to a trivial incident. It is submitted that the prosecutrix in her statement under Section 164 Cr.P.C. recorded before the Magistrate has only alleged that while she was standing on

the road and attempting to start her motorbike, the applicant arrived at the spot and insisted her to go along with him on the threat of assault and she was compelled to proceed towards Bhilai and except this, there is no allegation against the applicant. Therefore, in these circumstances when the investigation is complete and charge sheet has been filed, the applicant may be granted bail.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that in view of the statement of the prosecutrix, a prima facie case is made out against the applicant.
5. Considering the submissions made by learned counsel for the parties, particularly taking into consideration the submission based on prosecutrix's statement recorded under Section 164 Cr.P.C. wherein the only allegation is that the applicant took the prosecutrix in his bike towards Bhilai and that there is no allegation of commission of rape against the applicant and further considering that the investigation is complete and charge sheet has been filed, I am inclined to allow the application.
6. The application is accordingly allowed. 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