

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8310 of 2016

Shekhar @ Chandrashekhar Chauhan S/o Manharan Chauhan Aged About 22 Years R/o Vidya Nagar, Ward No. 1, Thana - Bemetara, District - Bemetara Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : Thana - Bemetara, District - Bemetara Chhattisgarh

---- Respondent

For Applicant	:	Shri Samir Singh, Advocate
For Respondent/State	:	Shri B. Gop Kumar, Dy.A.G.

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. 533 of 2016 registered in Police Station- Bemetara, District-Bemetara (C.G.) for the alleged commission of offence under Sections 363, 366 & 376 IPC and Section 5 (i), 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped and committed rape on the prosecutrix who is stated to be less than 18 years of age.
3. Learned counsel for the applicant submits that the allegation against the applicant are false and fabricated as the prosecutrix in her statement under Section 164 Cr.P.C. recorded before the Magistrate has clearly stated that she had an affair with the applicant and both of them had gone to different places voluntarily and no sexual intercourse was committed by the applicant. Therefore, the applicant may be granted bail.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that on the basis of FIR and 161 Cr.P.C. statement, a prima facie case is made out and as the prosecutrix was less than 18 years of age, consent is immaterial.
5. Considering the submissions made by learned counsel for the parties, particularly taking into consideration the submission based on statement of the prosecutrix recorded under Section 164 Cr.P.C. wherein she has stated that she had a love affair with the applicant and both of them had gone for excursion to one or two places and that she has not alleged any sexual intercourse and further considering that investigation is complete, charge sheet has been filed and that the applicant is not 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 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