

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8671 of 2016

Chandar Say (Chandrar Say) @ Chandu S/o Anand Kujur Aged About 18 Years
R/o Sayar Rai Chowki, Raghunathpur, Police Station Lundra, District- Surguja,
Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Lundra, District Surguja,
Chhattisgarh.

---- Respondent

For Applicant	:	Shri Arvind Sinha, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

09/01/2017

Heard.

1. The applicant has been arrested in connection with Crime No. 122 of 2016 registered in Police Station- Lundra, District-Surguja (C.G.) for the alleged commission of offence under Sections 363, 366-A & 376 (2) (n), 342, 109 IPC and Section 5 (i), 6 and 17 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the co-accused and the present applicant kidnapped the prosecutrix and thereafter, the prosecutrix went along with co-accused Villiams and then it is stated that Villiams committed rape on her. It is further alleged that thereafter the prosecutrix and co-accused Villiams came back to the house of the applicant and there also, the prosecutrix was raped by co-accused Villiams.
3. Learned counsel for the applicant submits that as far the present applicant is

concerned, he is not alleged to have committed rape on the prosecutrix. According to him, the prosecutrix and Villiams had an affair and in fact Villiams and prosecutrix left the applicant in midway and went to places of their choice where the prosecutrix is alleged to have been subjected to rape. Learned counsel for the applicant further submits that though in the present case charge sheet has not been filed, further custodial interrogation of the applicant may not be necessary and as the applicant is a villager and not in a position to tamper with the prosecution witnesses, he may be granted bail.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that looking to the role alleged to have been played by the applicant even though the applicant may not have committed rape, he had played an important role in kidnapping the prosecutrix.
5. It is prima facie seen that in the present case, the applicant has been involved in the alleged commission of offence on the ground that the prosecutrix went along with the present applicant and co-accused Villiams. In her statement under Section 164 Cr.P.C., the prosecutrix has stated that initially, she accepted offer of Villiams to go along with him on a ride and thereafter Villiams and prosecutrix left the present applicant midway and then they proceeded to different places where it is alleged that she was subjected to sexual intercourse by co-accused Villiams. She has further stated that on the next day, she and Villiams came to the house of present applicant and stayed there where Villiams again subjected her to rape. Therefore, considering the aforesaid role alleged to have been played by the applicant and for that, the State counsel could not satisfy the Court as to why custodial interrogation of the applicant is necessary and that statement of the prosecutrix under Section 164 Cr.P.C. has already been recorded, 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

Praveen