

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 1209 of 2017**

Subrat Behera S/o Binod Behera Aged About 27 Years (Wrongly Mentioned The Father Name Of The Applicant As Vinod In The Rejection Order ) R/o R. D. A. Building, M. Block, House No. 314, Veersawarkar Nagar, Heerapur, Post Office Raipur Police Station Kabeer Nagar, Raipur District Raipur Chhattisgarh

---- Applicant

**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Kabeer Nagar, District Raipur Chhattisgarh

---- Respondent

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| For Applicant        | : | Shri Shivendu Pandya, Advocate   |
| For Respondent/State | : | Shri Aditya Sharma, Panel Lawyer |

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

**Order On Board**

**27/02/2017**

Heard.

1. The applicant has been arrested in connection with Crime No.88 of 2016 registered in Police Station- Kabeer Nagar, District -Raipur (C.G.) for the alleged commission of offence under Sections 363, 366 & 376 IPC and Sections 4 & 6 of the Protection of Children for Sexual Offence Act, 2012.
2. Case of the prosecution, in brief, is that the applicant kidnapped and thereafter committed rape on the prosecutrix.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated on exaggerated allegations. The prosecutrix in her statement under Section 164 Cr.P.C. recorded before the Magistrate has stated that she has an affair with the applicant and there are no allegation of commission of any sexual intercourse. Therefore, in these circumstance, in the absence of there being any allegation of sexual assault or sexual harassment and any rape committed on

the prosecutrix, the applicant may be granted bail as charge sheet has already been filed and the applicant is not likely to abscond or tamper with the prosecution witnesses.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that though in the statement under Section 164 Cr.P.C., the prosecutrix has not stated regarding any rape committed on her, in the FIR and the diary statement recorded by the police, there is mention of prosecutrix being subjected to sexual intercourse. Therefore, as the prosecutrix is a minor, the applicant may not be released on bail.
5. Having considered 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. before the Magistrate, there is no allegation of commission of sexual intercourse, sexual assault or sexual harassment and the prosecutrix herself has stated that she had an affair with the applicant and that investigation is complete, charge sheet has been filed and that the applicant is not in a position to abscond or tamper with the prosecution witnesses, I am inclined to enlarge the applicant on bail.
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