

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 557 of 2017

Nanhu Das S/o Ghasi Das Aged About 20 Years R/o Village- Mahua- Tikra, Police Station Darima, District- Surguja, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Of Police Station- Darima (Wrongly Mentioned As Ambikapur In The Impugned Order), District- Surguja, Chhattisgarh.

---- Respondent

Dr. Shailesh Ahuja, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

30/01/2017

Heard.

The applicant has been arrested in connection with Crime No.28/2016 registered at Police Station – Darima, District - Surguja (CG) for alleged commission of offences under Section 363, 366, 376 of IPC and Section 5 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Case of the prosecution is that the applicant kidnapped and thereafter committed rape on the prosecutrix and the prosecutrix 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. The prosecutrix may have affair with the applicant but in statement under Section 164 CrPC recorded before the Magistrate, she has clearly stated that the applicant did nothing to her. It is also submitted that though the prosecutrix resided with the applicant, but no case of offence under Section 376 is made out. It is further submitted that the investigation is complete,

charge sheet has been filed and the applicant is in jail since 02/03/2016 , therefore, the applicant may be granted bail as he is not likely to abscond or tamper with the prosecution witnesses.

4. On the other hand, learned State counsel opposes bail application and submits that looking to the gravity of allegations and that the prosecutrix is less than 18 years of age, consent is immaterial.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission that in 164 CrPC statement, the prosecutrix has not alleged commission of offence under Section 376 IPC, 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 grant bail to the applicant.

6. Accordingly, the application is 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 Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge