

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.167 of 2017

1. Kirtan Lal S/o Udal Rathiya Aged About 23 Years Caste Kanwar, R/o Parsada, Police Station Kotra Road, Raigarh, Tahsil & District Raigarh, Chhattisgarh.
2. Tekchand S/o Haricharan Bareth Aged About 30 Years R/o Sonadula, Police Station & Tahsil Malkharoda, District Janjgir- Champa, Chhattisgarh.
3. Rajkumar S/o Dr. B.P. Bareth Aged About 21 Years Caste Dhobi, R/o Village Sonadula, Police Station & Tahsil Malkharoda, District Janjgir- Champa, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Hasoud, District Janjgir- Champa, Chhattisgarh.

---- Respondent

For Petitioners	:	Shri Kishore Narayan, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

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

Order On Board

17/01/2017

Heard.

2. The applicants have moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.127/2016 registered at Police Station Hasoud, District Janjgir-Champa for the offence punishable under Section 363, 366, 376/34 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

3. Case of the prosecution is that the prosecutrix, who is minor, was kidnapped by the applicants and co-accused Surendra. It is alleged that later on, Surendra took the prosecutrix to other stations, where he has committed rape on the prosecutrix.

4. Learned counsel for the applicant submits that in so far as three applicants are concerned, their involvement is only to the extent that they

helped co-accused Surendra and the prosecutrix to run away. He submits that the prosecutrix in her statement recorded under Section 164 Cr.P.C. before the Magistrate, has clearly stated that she was in love with Surendra and she had eloped with Surendra and the applicants only helped them to run away, therefore, in these circumstances, no case for commission of offence under Section 366 & 376 of IPC or Section 6 of the Protection of Children from Sexual Offences Act, 2012 is made out against the present applicants and offence under Section 363 of IPC is bailable in nature. It is lastly submitted that as the investigation is complete, charge sheet has been filed and the applicants are not likely to abscond or tamper with the prosecution witnesses, the applicants may be enlarged on bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that the prosecutrix, who is minor, was removed from lawful custody of her guardian by the applicants, therefore, prima facie case is made out against the applicants.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the role alleged to be played by the applicants as also considering the statement of the prosecutrix recorded under Section 164 Cr.P.C., in which, she has clearly stated that she was in love with Surendra and allegation of sexual intercourse was against co-accused Surendra not against the present applicants and further taking into consideration that the investigation is complete, charge sheet has been filed and the applicants are not likely to abscond or tamper with the prosecution witnesses, the application is allowed.

7. It is ordered that the applicants shall be released on bail on each of them furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court. They shall appear before the trial Court regularly on each and every date, unless exempted.

SD/-

(**Manindra Mohan Shrivastava**)

J U D G E