

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 245 of 2017

1. Topram Nishad S/o Devsingh Nishad, Aged About 22 Years R/o Village- Kasekera, Thana- Komakhan, Tahsil- Bagbahra, Civil And Revenue District- Mahasamund Chhattisgarh.
2. Heera Sahu, S/o Motiram Sahu, Aged About 25 Years R/o Village- Kasekera, Thana- Komakhan, Tahsil- Bagbahra, Civil And Revenue District- Mahasamund Chhattisgarh.
3. Naresh Dhruv, S/o Pardesi Dhruv, Aged About 32 Years R/o Village- Kosmarra, Thana- Komakhan, Civil And Revenue District- Mahasamund Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through- Station House Officer, Police Station- Komakhan, District- Mahasamund Chhattisgarh.

---- Respondent

For Applicant	:	Shri Sunil Sahu, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Panel Lawyer

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

Order On Board

23/01/2017

Heard.

1. The applicants have been arrested in connection with Crime No.111 of 2016 registered in Police Station- Komakhan, District -Mahasamund (C.G.) for the alleged commission of offence under Sections 363, 376 and 342/34 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the prosecutrix, a minor, was kidnapped by co-accused Mohan Sahu and she was taken in vehicle driven by one Naresh Dhruv. It is further alleged that thereafter Manoj had taken the prosecutrix to

another place where Manoj committed rape on the prosecutrix. As far as other two applicants- Topram Nishad and Heera Sahu are concerned, it is alleged that after the commission of offence, the prosecutrix was handed over to these two applicants by Mohan to take her to her house and these two applicants dropped the prosecutrix near her house.

3. Learned counsel for the applicants submits that even according to the statement of the prosecutrix, the prosecutrix had an affair with Mohan Sahu and the allegation of committing sexual intercourse is only against Mohan Sahu. As far as applicant -Naresh is concerned, he has been involved only because he was also along with the prosecutrix and Mohan Shau but there is no allegation of commission of rape against him. Applicants Topram and Heera Sahu have done nothing but had escorted the prosecutrix and dropped her near her house, therefore, the applicants may be granted bail as the applicants are 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 according to the prosecutrix, Mohan Sahu committed rape on her, the manner in which the other applicants remained associated with Mohan Sahu, prima facie shows their involvement also in kidnapping and facilitating commission of offence of rape.
5. Having considered the submissions made by learned counsel for the parties, particularly taking into consideration the role alleged to be played by the applicants as per the prosecutrix statement recorded under Section 164 Cr.PC. and that the allegation of commission of rape is against co-accused Mohan and further that the applicants are not in a position 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 applicants shall be released on bail on each of them 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 applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and

- (ii) The applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen