

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 609 of 2017

Satyawan Choudhary S/o Shri Motiram Choudhary, Aged About 24 Years R/o Village Banpur, Thana Lalganj, District Basti Uttar Pradesh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Gariyaband, District Gariyaband Chhattisgarh

---- Respondent

For Applicant	:	Shri Sachin Singh Rajput, Advocate
For State	:	Shri Manish Nigam, Panel Lawyer

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

Order On Board

03/02/2017

Heard.

1. The applicant has been arrested in connection with Crime No.95 of 2014 registered in Police Station- Gariyaband, District- Gariyaband for the alleged commission of offence under Sections 363, 366, 376 (2) (n) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant committed rape on the prosecutrix.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the case. In fact he was not even in the country and he had moved outside the country and went abroad on 4th June, 2014. He submits that the prosecutrix has given contradictory statement during trial with regard to the date of incident and the period during which the applicant is alleged to have committed sexual intercourse with the prosecutrix. Therefore, at this stage, when the prosecutrix and other important prosecution witnesses have already

been examined, the applicant may be granted bail. He further submits that the ocular testimony of the prosecutrix and the case of the prosecution is not supported by medical report because in the medical report, the doctor has not stated about any recent sexual intercourse and it is quite doubtful whether any penetration at all had taken place so as to make out a prima facie case under the POCSO Act. It is next submitted that the applicant is not likely to abscond and there is no likelihood of tampering prosecution witnesses, because most of the prosecution witnesses have already been examined. It is lastly submitted that the applicant is even prepared to surrender his passport. Therefore, in these circumstances, the applicant may be released on bail.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that apart from a prima facie case made out against the applicant, in view of the statement of the prosecutrix recorded under Section 164 Cr.P.C. before the Magistrate and also before the Court, the applicant, in all likelihood, is likely to abscond because the applicant had earlier remained absconded until he was arrested at International Airport on a lookout circular.
5. Having considered the submissions made by learned counsel for the parties, particularly taking into consideration that the applicant is likely to flee away from justice as he is being tried for grievous offence and that he is arrested on lookout circular from International Airport and further taking into consideration the nature and gravity of allegation and that it is not a case of very long detention during trial, I am not inclined to enlarge the applicant on bail.
6. The application is therefore rejected.

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