

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 849 of 2017

Satyendra Sahani S/o Bhikham Sahani Aged About 23 Years R/o Village Chainpatti, Police Station Tareya Sujan, District Kushinagar (Uttar Pradesh), At Present Resident Of Village Sambhalpur, Police Station Nandghat, District-Bemetara, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through: Station House Officer, Police Station Nandghat, District Bemetara, Chhattisgarh

---- Respondent

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

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

Order On Board

13/02/2017

Heard.

1. The applicant has been arrested in connection with Crime No.389 of 2016 registered in Police Station- Nandghat, District-Bemetara (C.G.) for the alleged commission of offence under Sections 363, 366, 376, 506, 368/34 IPC and Sections 4, 5 (I) & 6 of the Protection of Children from Sexual Offences 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 prosecutrix in her statement recorded under Section 164 Cr.P.C. before the Magistrate has not made any allegation of commission of any sexual intercourse by the applicant and therefore, in these circumstances, when the investigation is complete, charge sheet has been filed and also looking to the long pre-trial detention since

19.10.2016, 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 the girl being a minor in age and she having been kidnapped by the applicant and there being allegation of sexual intercourse in her statement recorded under Section 161 Cr.P.C., the applicant is not entitled to grant of bail.
5. Having heard learned counsel for the parties, taking into consideration the submission that the prosecutrix in her statement recorded under Section 164 Cr.P.C. has not made any allegation of sexual intercourse against the applicant and further taking into consideration that the investigation is complete, charge sheet has been filed and that the applicant is in jail since 19.10.2016 and that he is not likely 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.
 - (iii) If there is any allegation of applicant threatening the prosecutrix or in any manner tampering with the prosecution witnesses in the future, the prosecution may apply for cancellation of bail.

Certified copy as per rules.

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