

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 120 of 2017

Bhawani Tiwari S/o Mr. Gyanik Lal Tiwari, Aged About 20 Years R/o Village Tata,
Thana & Tehsil - Malkharoda, District Janjgeer Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Kharasiya,
District Raigarh Chhattisgarh

---- Respondent

Shri Achyut Tiwari, counsel for the applicant/s.
Shri Manish Nigam, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

28/02/2017

Heard.

The applicant is apprehending his arrest in connection with Crime No.103/2015 registered at police station – Kharasiya, District – Raigarh (CG) for alleged commission of offences under Section 363, 366-A, 34 of IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act').

2. Case of the prosecution is that the applicant, with other co-accused persons kidnapped the prosecutrix, a minor girl.

3. Learned counsel for the applicant submits that the applicant was nowhere involved in the alleged commission of offence and he has been falsely implicated. He submits that the other co-accused have already been tried by the Trial Court and in the Trial, the Court has found that the prosecutrix was not a minor and she was a major. It is submitted that when the applicant came to know that he is involved in the criminal case, he applied for anticipatory bail before the Court below which has been rejected. Thereafter, this application has been filed.

4. On the other hand, learned State counsel submits that the applicant is absconding since long in the present case. Therefore, the Trial Court has proceeded only against the co-accused persons and not against the present applicant. In these circumstances, when the applicant remained absconded and did not co-operate with the investigation, he may not be granted anticipatory bail.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the judgment of the Court below declaring that the prosecutrix is a major and not minor and that the allegation against the applicant and other accused were under Section 363, 366-A and Section 8 of the POCSO Act, I am inclined to grant anticipatory bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall surrender before the concerned police station within 30 days from today and on his surrender, he shall be released on bail on 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 arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious investigation and trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge