

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.1636 of 2017

- Tilak Das S/o Hukumchand Tandon, Aged About 20 Years R/o Village Musuvadih Navagaon, Police Station Simga, District- Balodabazar- Bhatapara, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Simga, District Balodabazar- Bhatapara, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Amiyakant Tiwari, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

15/03/2017

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.28/2017 registered at Police Station Simga, District Baloda Bazar-Bhatapara for the offence punishable under Section 363, 366, 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

3. Case of the prosecution is that the applicant kidnapped and thereafter committed rape on the prosecutrix, who is less than 18 years of age.

4. Learned counsel for the applicant submits that in this case, the applicant has been falsely implicated because the parents of the prosecutrix have lodged report against the applicant having come to know that he is in affair with the prosecutrix. He further submits that in the prosecutrix's statement under Section 164 Cr.P.C. recorded before the Magistrate, she has emphatically denied that she was kidnapped or sexual intercourse was committed by the applicant. It is

submitted that at this stage, the applicant, who is aged 20 years, is not required to be detained because further custodial interrogation of the applicant is not necessary. It is lastly submitted that the applicant would co-operate with the investigation and on appropriate terms and conditions, he may be granted bail.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that at present, investigation is not complete and still going on, and therefore, at this stage, if the applicant is released on bail, investigation may be adversely affected. He also submits that in the FIR lodged by the father of the prosecutrix, there are allegations against the applicant.

6. Taking into consideration the submission of learned counsel for the parties, perused case diary and particularly taking into consideration the statement of the prosecutrix recorded under Section 164 Cr.P.C. and further taking consideration the submission of learned counsel for the applicant that the prosecutrix has not stated anything against the applicant, and therefore, there is no compelling reason to keep the applicant into custody requiring further interrogation and the applicant does not appear to be in a position to influence the progress of investigation or tamper with the prosecution witnesses, the application is allowed.

7. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.20,000/- along with one local surety of the like amount to the satisfaction of the trial Court on the following conditions:-

(A) The applicant shall co-operate with the investigation and shall respond to the notice of the police as and when called to appear.

(B) He shall not tamper with any of the prosecution witnesses and any attempt made by the applicant to influence the prosecution witnesses, may entail cancellation of bail.

SD/-

(Manindra Mohan Shrivastava)

J U D G E