

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5710 of 2017

- Kuldip Sahu, S/o Ashok Kumar Sahu, Aged About 19 Years, Caste Teli, R/o Bus Stand, Surajpur, Police Station And District Surajpur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Surajpur, District Surajpur Chhattisgarh.

---- Respondent

AND

MCRC No. 5649 of 2017

- Vijay Kasera, S/o Late Shri Vishwanath Kasera, Aged About 19 Years R/o Bus Stand, Surajpur, Police Station, Tahsil And District Surajpur Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicant in MCRC No.5710/17	: Shri Sunil Tripathi, Advocate.
For Applicant in MCRC No.5649/1	: Ms. Mandavi Bhardwaj, Advocate.
For Non-applicant/State	: Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

21.09.2017

As both the cases arise out of the same crime number and incident, both are being disposed of by a common order. Hence both

the being disposed of by the common order.

As per office note except both the applicants no other remaining co-accused (Mohammad Rizwan Ansari & Vishal Gupta) had preferred any petition to enlarged them on bail.

Heard the matter finally.

2. Learned counsel for the applicants would submit that both the applicants were arrested on 23/07/2017 in connection with the Crime No.285/2017, registered in Police Station Surajpur, Distt. Surajpur (C.G.) for the offence punishable under Section 363, 366 & 34 of the Indian Penal Code.

3. Learned counsel for the applicants submits that after investigation police had filed charge-sheet which is presently pending before the Chief Judicial Magistrate, Surajpur (C.G.) as Criminal Case No. 2245/604/17, pending for committal. Learned counsel for the applicants would submit that both the applicants are aged about 19 years. Learned counsel for the applicants would submit that the applicants are the first offenders and they were never involved in any of the crime prior to the incident. As per allegation, both the applicants with the help of other co-accused Mohd. Rizwan Ansari and Vishal Gupta has taken the prosecutrix aged about 16 years without the lawful consent of her parents and taken her to the Durg (C.G.) via train and thereafter when they were informed that police is in search of them. They were returning back towards their home destination by train and when they were going to a relative of the applicant Kuldip Sahu, police recovered the prosecutrix minor and after further investigation of a missing person filed the charge-sheet against all the 4 accused persons as per statement of the

prosecutrix the applicant Kuldip Sahu wanted to keep prosecutrix as his wife, but he had not committed any act in furtherance of said the applicants are in custody since long. They will not commit any offence in future, they may be enlarged on bail till trial.

4. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants and would submit that both the applicants kidnapped and had taken the prosecutrix with them without any lawful consent of the parent taken her to Durg (C.G.) and thereafter returned to their home destination and there was intention for the illicit marriage as the prosecutrix was minor. Hence, looking to the above facts the instant MCRC may be dismissed.

5. Perused the entire matter.

6. As both the applicants are in custody since 2 months till date, charge-sheet has been filed, trial may take some time, both the applicant is aged about 19 years and there is no criminal antecedent reported against the applicants. After perusal, of statement of the prosecutrix recorded under Section 161 & 164 of the Cr.P.C. It appears that none of the applicants not made any act towards the illicit marriage and also as none of the applicants not committed any wrong act with the prosecutrix with the above facts and also consideration of facts surfaced, I am inclined to grant one opportunity to the applicants so that they shall not commit any offence in future and shall remain peacefully in the society.

7. Consequently, MCRC is hereby allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.30,000/- to each

applicant with one solvent surety of like some amount to the satisfaction of Chief Judicial Magistrate/Trial Court, Distt. Surajpur, as the case may be for their appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

10. In addition, the applicants are directed not to communicate/contact in any manner with the prosecutrix, her family members and the witnesses cited in the charge-sheet and any other person concerned or attempt to ask for any favour in the trial directly or indirectly. If so, the injured and the witnesses may report the said act to the trial Judge and if the trial Judge finds after hearing that in any way the applicant directly or indirectly gave pressure for illegal favour in the trial or otherwise, the bail granted to the applicant shall be cancelled without further reference to the bench and the concerned trial Court may take the applicants in custody including other measures as provided under the law.

11. Copy of the order be placed in the file of MCRC No.

5649/2017.

12. Certified copy as per rules.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**