

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1371 of 2017

Akhilesh Kumar Sahu S/o Ramlal Aged About 25 Years R/o Cherwapara,
Chhindand, Police Station Baikunthpur, District Korea, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Baikunthpur District Korea,
Chhattisgarh.

---- Respondent

For Applicant	:	Shri Pragalbha Sharma, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

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

Order On Board

06/03/2017

Heard.

1. The applicant has been arrested in connection with Crime No.119 of 2016 registered in Police Station-Baikunthpur District -Korea (C.G.) for the alleged commission of offence under Sections 363, 366, 376 of IPC and Section 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution is that the applicant kidnapped and committed rape on the prosecutrix.
3. Learned counsel for the applicant argues that the case of the prosecution is falsified on what has been stated by the prosecutrix in her Court's statement. He submits that the prosecutrix has been examined during trial and she has not supported the case of the prosecution. She has clearly stated that she and the applicant were having an affair and she has also clearly stated that there is no sexual intercourse committed between her and applicant in the year 2010-2016 and that the police officer despite her objection, recorded certain wrong statements. Therefore, at this stage, when most important prosecution witnesses have been examined, who has not supported the case of the prosecution and there is no material to show that

in the event of grant of bail, the applicant is likely to abscond or tamper with the prosecution witnesses, therefore, he may be granted bail.

4. On the other hand, learned counsel for the State has opposed the bail application and submits that prima facie from the record of the case, it is revealed that the applicant committed rape on the prosecutrix and that FIR was recorded and statements were also recorded which fact was stated in her examination. Therefore, at this stage, it would be a matter of appreciation of evidence but looking to the allegation and when number of prosecution witnesses are yet to be examined, the applicant may not be entitled for grant of bail.

5. Considering the submissions of learned counsel for the parties, particularly taking into consideration the submission that the prosecutrix has already been examined in the Court and the submission of learned counsel for the applicant that the prosecutrix has not supported the case of the prosecution and has stated that no sexual intercourse has taken place between her and applicant in the year 2010-2016 and she and applicant had an affair, the application is allowed.

6. 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.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge