

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1794 of 2018

Shiv Kumar Sen S/o Late Panchuram Sen, Aged About 32 Years Caste Nai,
R/o Village Old Gordha, P.S. Kasdol, District Balodabazar Bhatapara,
Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station
Kasdol, District Balodabazar Bhatapara, Chhattisgarh ---- Respondent

For Applicant	:	Shri Amiyakant Tiwari, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

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

Order On Board

27/04/2018

Heard.

1. The applicant has been arrested in connection with Crime No.509 of 2017 registered at Police Station- Kasdol, District Balodabazar-Bhatapara (CG) for the alleged commission of offence under Section 363, 366A, 376, 494 of IPC and Section 4, 17 of POCSO Act, 2012.
2. Case of the prosecution is that the applicant kidnapped the minor and she was taken to another station and subjected to rape. It is the case of the prosecution that the prosecutrix, at the time of alleging incident, was a minor.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated in the alleged commission of offence. The prosecutrix has been examined in the Court and she has not involved the applicant in the alleged offence. He would submit that the prosecutrix before the Court in her evidence has stated that she had gone along with her maternal uncle to Jammu Kashmir and from there, she was recovered. According to learned counsel for the applicant, the prosecutrix has further stated that the applicant never committed any kind of sexual intercourse with her nor she was kidnapped by the applicant. Therefore, at this stage, when the prosecutrix, herself, has not supported the prosecution case, he may be granted bail.

4. On the other hand, learned State counsel opposes the bail application and submits that looking to the nature and gravity of allegation and that the prosecutrix is a minor and trial is not yet complete, the application for grant of bail may be rejected.
5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration based on the prosecutrix statement before the Court that she has not supported the case of the prosecution, turned hostile and stated that no sexual intercourse committed by the applicant and that many prosecution witnesses have already been examined and that the applicant is in jail since 20.12.2017 and there is no material to show that the applicant is likely to abscond or tamper with the prosecution witnesses, the application is allowed.
6. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties 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