

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.263 of 2020

Devendra Kumar Panika (Kumar not mention in order), aged about 24 years, S/o Ramkripal Panika, by Caste Panika, R/o Village Ghatai, Thana Janakpur, Distt. Koriya (CG) ----- **Applicant**

Versus

State Of Chhattisgarh, Through District Magistrate, District Koriya, Baikunthpur Chhattisgarh ----- **Respondent**

For Applicant	:	Shri Parag Kotecha, Advocate
For Respondent/State	:	Shri Alok Bakshi, Additional A.G.
For Objector	:	Shri Anand Kesharwani, Advocate

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

Order On Board

18/09/2020

Heard.

1. The applicant has been arrested in connection with Crime No.90 of 2019 registered at Police Station- Janakpur, District Koriya (CG) for the alleged commission of offence under Section 376(2)(n) of IPC (wrongly mention as 372) and Section 5 & 6 of Protection of Children from Sexual Offences Act, 2012.
2. Prosecution case is that the applicant committed rape on the prosecutrix who stated to be minor.
3. Learned counsel for the applicant would submit that according to the material available on record as also the evidence of the prosecutrix and other witnesses, present is clearly a case of consent. He would next submit that the evidence with regard to age of the prosecutrix renders it highly doubtful that the prosecutrix was minor on the date of alleged commission of offence. He would further submit that the prosecutrix did not agree for DNA test to ascertain the parentage of the child. It is next submitted that the applicant is in jail since 31.07.2019 and till date, trial has not been concluded nor likely to be concluded early. Therefore, at this stage, the applicant may be granted bail.

4. On the other hand, learned counsel for the State and Objector oppose the prayer for grant of bail by submitting that on the basis of material contained in the charge-sheet, the prosecutrix was a minor girl on the date of alleged commission of offence and the prosecutrix has stated everywhere and even in the Court statement that the applicant has committed sexual intercourse with her.
5. In the present case, prosecutrix has been examined and the evidence with regard to age has also been led by the prosecution. Without commenting upon the merits of the case, considering the advance stage of trial, though the applicant is in jail since 31.07.2019, at this stage, I am not inclined to grant bail. In case, trial is not concluded/commenced within three months, the applicant would be at liberty to revive the application.

Sd/-
(Manindra Mohan Shrivastava)
Judge