

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 691 of 2020

Surendra @ Nanu S/o Horilal Dewangan Aged About 24 Years Resident Of Village Tundra, Police Station Gidhour (Tundra), District - Baloda Bhatapara, Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Gidhour (Tundra), District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondent

For Applicant	:	Shri Satya Prakash Verma, Advocate
For State	:	Shri Ravish Verma, Govt. Advocate

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

Order On Board

15/09/2020

Heard.

1. The applicant has been arrested in connection with Crime No.275/2019 registered in Police Station -Gidhour (Tundra), District- Baloda Bazar-Bhatapara (CG) for alleged commission of offence under Section 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant entered the house of prosecutrix and committed rape on her. According to prosecution, the prosecutrix is less than 18 years of age and a minor.
3. Learned counsel for the applicant submits that irrespective of the age of the prosecutrix, it is a case of false implication. He would argue that the FIR itself has been lodged after four months. It is next submitted that the manner in which the prosecutrix met with the applicant has been differently stated and there is contradictory version in the FIR, case diary

statement under Section 161 Cr.P.C. and statement under Section 164 Cr.P.C. It is further argued that the prosecutrix, her mother have been examined in the Court now and their statements in the Court also makes out a case of contradiction with regard to manner in which the prosecutrix met with the applicant. He would lastly submit that mother of the prosecutrix, in her Court evidence, has admitted that they had only lodged report regarding teasing of the girl. It is argued that in view of these circumstances, particularly when the prosecutrix has already been examined, applicant is in jail since 27.12.2019 and as no prima facie case is made out, the applicant may be granted bail.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that the prosecutrix in the FIR and in all statements made by her has clearly stated regarding commission of offence of rape on her, therefore, looking to her minority, no case of consent can be put-forth to absolve from criminal liability. He would next submit that whether the delay is properly explained or not and whether the prosecutrix's statement with regard to manner in which he met with the applicant as stated by her in the FIR, case diary statement under Section 164 Cr.P.C. and Court evidence are all matters of appreciation of evidence.
5. I have heard learned counsel for the parties. On prima facie considerations, it is found that the FIR in the case was lodged after four months of the alleged incident and learned counsel for the applicant has highlighted that the manner in which the prosecutrix met with the applicant, which according to her led to commission of rape on her, appears to be prima facie differently stated in various statements. At this stage, it is not proper to comment upon the veracity of the evidence led by the prosecution during trial, but, it has been highlighted that there is an admission of the mother of the prosecutrix in her evidence that they had lodged report only with regard to chherkhani (teasing).
6. Taking into consideration the aforesaid circumstances and the material as also submission of learned counsel for the parties, present is a fit case for grant of bail.

7. The application is accordingly allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- 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.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen