

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.992 of 2020**

- Ved Prakash @ Bodaru S/o Shri Budharu Ram Patel Aged About 19 Years R/o Village- Siriyadih, Police Station- Kasdol District- Balodabajar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through, Station House Officer, Police Station- Kasdol, District- Balodabajar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondent

For Applicant	:	Shri Sunil Sahu, Advocate
For Respondent/State	:	Shri Ravish Verma, Govt. Advocate

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****19/03/2020**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.885/2019 registered at Police Station Kasdol, District Balodabazar-Bhatapara for the offence punishable under Section 363, 366 and 376 of IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012. The applicant was arrested on 12-12-2019.
2. Case of the prosecution is that the applicant lured minor girl less than 18 years of age and she was abducted and taken to different places. It is further alleged that the applicant committed rape on the prosecutrix.
3. Learned counsel for the applicant submits that from the statement of the prosecutrix recorded under Section 164 of the Cr.P.C., it is apparent that the applicant, aged about 19 years and the prosecutrix were having love affair since two years. Even according to the prosecutrix, the applicant and the prosecutrix

both have gone to different places and stayed together, until they were recovered. It is submitted that the only proof of age regarding age of the prosecutrix is mark sheet and not even the entries made in the Dakhil Kharij Register of the School, that itself is not a clinching material. It is lastly submitted that looking to the age of the applicant, at this stage, he may be granted bail.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that according to records of the prosecution and the material with regard to age of the prosecutrix, age of the prosecutrix is less than 18 years of age, therefore, consent is immaterial. He would next submit that the prosecutrix has stated in her evidence that the applicant had committed sexual intercourse with her, therefore, prima facie case is made out against the applicant.

5. In the present case, prima facie material placed before this Court discloses two things, firstly that the applicant and the prosecutrix had love affair since last two years and both of them have proceeded together. The other thing is that prima facie material regarding age of the prosecutrix, appears to be less than 18 years of age, therefore, at this stage, consent cannot be made a basis to grant bail.

6. Accordingly, the application is rejected. However, the applicant would be at liberty to revive his application at an appropriate stage, after examination of the prosecutrix and/or, after production of evidence with regard to age of the prosecutrix.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E