

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3889 of 2020**

- Jaibhagwan Yadav S/o Bihari Yadav Aged About 20 Years R/o Parpatiya , Police Station Kamleshwarpur, District Surguja Chhattisgarh. (Wrongly Mentioned As Jaibihari Yadav In Order Sheet)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Mahila Thana, Ambikapur , District Surguja Chhattisgarh

---- Respondent

For Applicant/s	:	Mr. Awadh Tripathi, Advocate.
For State	:	Mr. Alok Bakshi, Additional A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****25/09/2020**

Heard.

1. At the outset, learned State Counsel would submit that though DNA report has now been obtained through authorized officer, the concerned SHO could not remain present today because she is in isolation because in the concerned police station number of police men have been found Corona positive.
2. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.70/2019 registered at Police Station- Mahila Thana, Ambikapur, District-Surguja, C.G. for the alleged commission of offence under Sections 376(3), 506 Part-II & 315/34 of IPC and Sections 5(j)(ii) & 6 of POCSO Act.
3. Prosecution case is that the applicant committed rape on the prosecutrix on 05.05.2019, due to which, prosecutrix became pregnant and gave birth to a child on 01.12.2019.
4. Learned counsel for the applicant submits that in the present case, FIR has been lodged on 05.12.2019, making false allegation of commission of rape on the applicant that he committed rape on the prosecutrix on 05.05.2019, due to

which, prosecutrix became pregnant and gave birth to a child on 01.12.2019. It is submitted that the report has been filed highly belatedly and is otherwise false because the applicant never committed any rape on the prosecutrix and the child delivered by the prosecutrix is not out of any sexual intercourse of the applicant with the prosecutrix. He would submit that the DNA report which has now been obtained by the authorized officer also shows that the applicant is not the biological father of the concerned child.

5. On the other hand, learned State Counsel opposes and submits that the allegations against the applicant are grave in nature. Prosecutrix is a minor and therefore, merely because the DNA report, at this stage, is not supporting the case of the prosecution, the statement of the prosecutrix cannot be discarded and it would depend upon her testimony during trial.
6. Having considered the submission of learned counsel for the parties, particularly taking into consideration that the report of alleged commission of rape has been lodged on 05.12.2019, alleging commission of rape on 05.05.2019 and the DNA report *prima facie* shows that the applicant is not biological father of the child born on 01.12.2019, present is a fit case for grant of bail to the applicant.
7. Accordingly, the bail application is 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 of the like amount to the satisfaction of the Trial Court on the condition that-
 - a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) He shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge