

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4153 of 2020**

- Manasa @ Ranju S/o Late Vishnu Mahilange Aged About 20 Years Caste Satnami, R/o Village- Bakarkuda, Police Chauki-Malhar, Tahsil- Masturi, Civil And Revenue District- Bilaspur, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station- Sirgitti, Civil And Revenue District- Bilaspur, Chhattisgarh

---- Respondent

For Applicant /s	:	Mr. Paras Mani Shriwas, Advocate.
For State	:	Mr. Alok Bakshi, Additional A.G.
For Objector	:	Mr. Krishna Kumar Burman, Advocate along with Mr. Vishnu Prasad-father of the prosecutrix.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/09/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.288/2020 registered at Police Station-Sirgitti, District Bilaspur, C.G. for the alleged commission of offence under Sections 363, 366, 376 (2) (N) of the IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Prosecution case is that the applicant abducted minor prosecutrix and then committed rape on her.
3. Learned counsel for the applicant would submit that the statement of the prosecutrix clearly shows that she had gone along with the applicant voluntarily and there was no compulsion or force on her. He would further submit that not only prosecutrix voluntarily went along with the applicant but she stayed with him and the sexual intercourse was also fully and completely consensual and now, the prosecutrix is carrying pregnancy of 6 months.

4. On the other hand, learned State Counsel opposes and submits that consent is immaterial because on the basis of material contained in charge sheet which includes the mark sheet and case diary statement of the prosecutrix and her father, prosecutrix was barely 15 years of age at the time of commission of offence of rape on her. He would further submit that as the consent is immaterial, the fact that the prosecutrix has become pregnant only support the prosecution case that she was subjected to sexual intercourse by the present applicant.
5. The objector does not oppose prayer for grant of bail by submitting that as the prosecutrix has become pregnant, the applicant may be granted bail.
6. *Prima facie*, from the material collected by the investigating agency prosecutrix, at the time when she went along with the applicant was barely 15 years of age. It is also found that the prosecutrix herself states that there was sexual intercourse between her and present applicant and she has also become pregnant.
7. As the prosecutrix is *prima facie* found to be a minor, consent is not material. As the offence for which the applicant has been charged carries minimum sentence also, present does not appear to be a fit case for grant of bail at this stage. However, in case the trial is not commenced within three months or if commenced prosecutrix is examined by the trial Court, in case eventuality so arises, it would be open for the applicant to revive his bail application.

Sd/-

(Manindra Mohan Shrivastava)
Judge