

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4257 of 2020**

- Amar Sai S/o Hari Tigga Aged About 20 Years R/o Village Nawadihkala (Shahpur), Police Station Chando, District Balrampur-Ramanujanj Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Balrampur District Balrampur Ramanujanj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Hariom Rai, Advocate.
For State	:	Mr. Alok Bakshi, Additional A.G.
For Objector	:	Mr. Avinash Gupta, Avocate, engaged through Legal Aid appears from the Help Desk.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****09/10/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.95/2020 registered at Police Station- Balrampur, District- Balrampur-Ramanujanj, C.G. for the offence under Sections 363, 366 & 376(2)(n) of IPC and Sections 4 & 6 of POCSO Act.
2. Prosecution case is that the applicant abducted and committed rape on the prosecutrix between the period from 14.04.2020 to 23.05.2020.
3. Learned counsel for the applicant would argue that the allegation of commission of rape is false and fabricated. The prosecutrix herself has clearly stated in her FIR and diary statement that she had called the applicant and therefore, it is a case of voluntary movement of the prosecutrix. He would next submit that even according to the prosecutrix, there was an affair between the applicant and the prosecutrix that means, it is a case of consent. Lastly, it is submitted that the material with regard to age of the prosecutrix, as collected by the investigating agency, itself, is highly doubtful and cannot be relied upon,

therefore, the entire case of the prosecution is highly doubtful and that investigation is complete, charge sheet has been filed, at this stage, the applicant may be granted bail.

4. On the other hand, learned counsel for the State and Objector oppose the bail application by submitting that as per school record, date of birth of the prosecutrix is 11.10.2004, which means that on the alleged date/dates of offence of commission of rape between the period from 14.04.2020 to 23.05.2020, the prosecutrix was even less than 16 years of age, therefore, consent is immaterial.
5. Taking into consideration the submissions of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix and material with regard to age of the prosecutrix, present is not a fit case for grant of bail.
6. The bail application is accordingly rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge