

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4565 of 2020**

- Devlal Khairwar S/o Shri Premal Khairwar Aged About 28 Years R/o Langdi, Police Station Raghunath Nagar, District Balrampur Ramanujganj Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Raghunath Nagar, District Balrampur Ramanujganj Chhattisgarh

---- Respondent

For Applicant	:	Mr. Sharad Mishra, Advocate.
For State	:	Mr. Ravish Verma, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/10/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.41/2020 registered at Police Station- Raghunath Nagar, District- Balrampur Ramanujganj, C.G. for the offence under Sections 376(2)(अ) & 506 of IPC and Sections 4 & 6 of POCSO Act.
2. Prosecution case is that the applicant abducted and committed rape on the prosecutrix in the month of July, 2018 and threatened her not to disclose the incident. Later on, prosecutrix became pregnant and delivered a child in the month of March, 2019. According to the prosecution, the prosecutrix was minor aged 14 years on the date of alleged commission of offence in July, 2018.
3. Learned counsel for the applicant would argue that according to the prosecutrix own statement under Section 164 Cr.P.C., she did not make any complaint until a dispute arose. Dispute arose only when the applicant was not prepared to keep the prosecutrix in his house. That means, only upon some dispute between the parties, the prosecutrix got report lodged through her father, thus, it is a case of consent. He would submit that prosecutrix married

the applicant and the applicant also wants to keep the prosecutrix with him.

4. On the other hand, learned State Counsel opposes and submits that as per the school records, date of birth of the prosecutrix is 16.09.2003, which shows that in July, 2018 she was just 14 years of age, therefore, consent is immaterial. The prosecutrix became pregnant and also gave birth to a child in March, 2019.
5. Taking into consideration the submissions of learned counsel for the parties, particularly taking into consideration the material with regard to age of the prosecutrix and that according to the prosecution, she became pregnant and also gave birth to a child, present is not a fit case for grant of bail.
6. The bail application is accordingly rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Ravi