

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.5119 of 2020**

- Shivendra Markam S/o Late Shri Tilakram Markam Aged About 24 Years
R/o Village - Banskot, Chowki - Banskot Police Station - Vishrampur
Tehsil - Baderajpur, District - Kondagaon Chhattisgarh., District :
Kondagaon, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Of Police
Station Keshkal Kondagaon District Kondagaon Chhattisgarh., District :
Kondagaon, Chhattisgarh

---- Respondent

For Applicant	:	Shri Ashutosh Shukla, Advocate
For Respondent/State	:	Shri Alok Bakshi, Additional AG

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****21/09/2020**

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.26/2018 registered at Police Station Keshkal, Kondagaon, District Kondagaon for the offence punishable under Section 363, 366, 506, 376(2)(N) of the IPC and Section 6 of POCSO Act . The applicant was arrested on 17-12-2019.
2. Prosecution case is that the present applicant abducted the prosecutrix and committed rape on her, who is minor in age.
3. Learned counsel for the applicant would argue that the present is a case of false implication. He would submit that though the prosecutrix had earlier stated that she and the applicant were having love affair, but there was no allegation of sexual intercourse and later on, in the supplementary statement, new story of sexual intercourse has been developed. He would next submit that such statement is not supported by any evidence. It is lastly submitted that in this case, investigation is complete, charge sheet has been filed and that the applicant is in jail since 17-12-2019, therefore, at this stage, the applicant may

be granted bail.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that in the last supplementary statement recorded by the police under Section 161 of Cr.P.C. on 16-12-2019, the prosecutrix has made clear allegation of sexual intercourse and looking to her age, at that time, she was less than 18 years of age, therefore, consent, if any, would be immaterial.

5. Taking into consideration the submission of learned counsel for the parties and the material disclosed during the course of hearing, the prosecutrix statement under Section 161 Cr.P.C. and 164 Cr.P.C. recorded on 06-12-2019, 07-12-2019, allegation of sexual intercourse is not there and it is only subsequently, in a supplementary statement recorded under Section 161 of Cr.P.C. on 16-12-2019, story of sexual intercourse has stepped in. Therefore, in view of above, particularly when investigation is complete, charge sheet has been filed and that the applicant is in jail since 17-12-2019, I am inclined to enlarge the applicant on bail.

6. Accordingly, the application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with one local surety of the like amount to the satisfaction of the concerned trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge