

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4471 of 2020

Mukesh Joshi S/o Balram Joshi Aged About 18 Years R/o Village Doma,
Police Station Mujgahan, District Raipur Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh Through Its Police Station Arang, District Raipur
Chhattisgarh ---- **Respondent**

For Applicant	:	Mr. Ravi Maheshwari, Advocate.
For Respondent/State	:	Mr. Alok Bakshi, Additional A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/09/2020

Heard.

1. The applicant has been arrested in connection with Crime No.144 of 2020 registered at Police Station- Arang Civil & Revenue, District Raipur (CG) for the alleged commission of offence under Section 363, 366, 376 of IPC, under Section 4 & 6 of POCSO Act.
2. Prosecution case is that the applicant abducted minor prosecutrix kept her in his house and committed rape on her.
3. Learned counsel for the applicant would submit that even according to the statement of the prosecutrix, the applicant and the prosecutrix had an affair and in her statement under Section 164 Cr.P.C. before the Magistrate, she has clearly stated that no sexual intercourse was committed, therefore, case under Section 363, 366 & 376 of IPC is not made out. It is submitted that investigation is complete, charge-sheet has been filed and the applicant is in jail since 07.04.2020.
4. On the other hand, learned counsel for the State opposes the prayer and submits that the statement of the prosecutrix clearly shows that the

prosecutrix was taken by the applicant, she remained with the applicant in his house until she was recovered and handed over to the custody of her father on 12.03.2020.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of the prosecutrix recorded before the Magistrate under Section 164 Cr.P.C. that the applicant has not committed any sexual intercourse on her and that the investigation is complete, charge-sheet has been filed and the applicant is in jail since 07.04.2020, the application is allowed.

6. 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 for the like amount to the satisfaction of the concerned trial Court with following further conditions:

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicant shall appear before the trial Court on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Rekha