

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.4517 of 2020

Sakundar S/o Sukhan Ram Aged About 20 Years R/o Surben, Police Station Korondha District Balrampur- Ramanujganj, Chhattisgarh

---- Applicant

Versus

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

--- Respondent

For Applicant	:	Mr. Ajeet Kumar Yadav, Advocate
For State	:	Mr. Ravish Verma, G.A.
For Informant/Prosecutrix	:	Mr. Avinash Gupta, counsel for the Informant/Prosecutrix, engaged through Legal Aid District Local Services Authority, Balrampur

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24/09/2020

Heard.

1. The applicant has been arrested in connection with Crime No.6 of 2020 registered at Police Station- Korondha, District Balrampur, Ramanujganj (CG) for the alleged commission of offence under Section 363, 376 (घ) (क), 342 of IPC and Section 4, 6 of the POCSO Act.
2. The prosecution case is that when the prosecutrix came out in the night of 2nd of April, 2020 to respond to call of nature, other accused came there and when prosecutrix also came out, she was caught hold by him and rape was committed, thereafter, she was taken to another place and there, she was subjected to rape by two persons including the present applicant.
3. Learned counsel for the applicant would argue that the applicant is being falsely implicated on the basis of suspicion because the prosecutrix is

changing her statement. Though in the FIR lodged on 03.04.2020 and written report on 05.05.2020, she named the applicant and another person in her statement under Section 164 Cr.P.C. recorded before the Magistrate, she does not name the applicant but only claims to identify. No Test Identification Parade has been done. He would also submit that there is delay of 1 day in filing FIR.

4. On the other hand, learned counsel for the State opposes the prayer and submits that the FIR was promptly lodged by the prosecutrix herself on the very next day of incident, in which, name of the applicant was clearly disclosed. He next submits that according to school register seized by the investigating agency, the date of birth of the prosecutrix is 06.04.2006, that means, the prosecutrix was less than 16 years of age on the date of alleged commission of offence of rape.

5. Learned counsel appearing for the Objector opposes the prayer for grant of bail by submitting that present is a case of commission of offence of rape against the minor and is a grave offence.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the contents of the FIR where the applicant has been clearly named and also taking into consideration the material with regard to age of the prosecutrix, present does not appear to be a fit case for grant of bail. The bail application is therefore rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge