

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.4871 of 2020

Pradip Singh S/o Trikan Singh Aged About 35 Years R/o Village Panjari
Plant, Raigarh, P.S. Chakradharnagar, Raigarh District Raigarh Chhattisgarh
----**Applicant**

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station -
Chakradharnagar, Raigarh District Raigarh Chhattisgarh ---- **Respondent**

For Applicant	:	Shri Manoj Kumar Jaiswal, Advocate
For Respondent/State	:	Shri Alok Bakshi, Additional A.G.

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

Order On Board

22/09/2020

Heard.

1. The applicant has been arrested in connection with Crime No.248 of 2019 registered at Police Station- Chakradharnagar, District Raigarh (CG) for the alleged commission of offence under Section 363, 366, 376 of IPC and Section 4 & 6 of POCSO Act.
2. Case of the prosecution is that the applicant abducted and committed rape on the prosecutrix, who is stated to be minor.
3. Learned counsel for the applicant would submit that a bare reading of statement under Section 164 Cr.P.C. of the prosecutrix, recorded by the Magistrate, would at once reveal that the applicant never abducted but it was the prosecutrix who insisted to marry, due to which, the applicant married her and thereafter they lived like as husband and wife and child is also born out of their wedlock. Therefore, none of the offences are prima facie made out. He further submits that investigation is complete and charge-sheet has also been filed, therefore, at this stage, the applicant may be granted bail.
4. On the other hand, learned counsel for the State referring to Court's

statement would argue that the prosecutrix, herself, has stated regarding birth of child out of relationship with the applicant which means that she has been subjected to sexual intercourse when she was a minor and therefore, consent is immaterial and a case of rape is clearly made out. He would also submit that as per date of birth of the prosecutrix which is 08.06.2002, as is evident from the birth date issued by the Government authority as also school certificate, on the date the prosecutrix went along with the applicant, married and gave birth to child, she was less than 18 years of age.

5. Taking into consideration the submission, particularly taking into consideration the material with regard to the age of the prosecutrix and prosecutrix gave birth to child, present is not a fit case for grant of bail. The bail application is therefore rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge