

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4807 of 2020**

- Bhameshwar Sahu S/o Chatur Das, Aged About 21 Years R/o Village Khamhardih, Police Station And Tehsil - Khairgarh, District - Rajnandgaon, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh, Through - District Magistrate Rajnandgaon, District Rajnandgaon Chhattisgarh

---- Respondent

For Applicant	:	Shri Siddharth Pandey, Advocate
For State	:	Shri Ravish Verma, Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****14/09/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.246/2020 registered at Police Station – Khairagarh, District - Rajnandgaon (C.G.) for alleged commission of offences under Section 354 B, 451 of IPC and Section 3 and 4 of POCSO Act.

2. Prosecution case is that when the prosecutrix, a minor, was all alone at home, the applicant entered and outraged her modesty.

3. Learned counsel for the applicant would submit that the applicant has been falsely implicated because of family rivalry. He would next submit that no case under Section 354 B or even under Section 451 of IPC or under Section 3 or 4 of POCSO is made out because it is not a case of assault or using criminal force with intention to disrobe or compel the prosecutrix to be naked. It is next submitted that the applicant is in jail since last two months and as the maximum punishment which could be awarded is five years, there is no necessity of further custodial interrogation.

4. On the other hand, learned State counsel opposes and submits that the

prosecutrix, as per material on record of the case diary, was less than 18 years of age. A prompt FIR was lodged in which it has been alleged that the applicant, taking undue advantage of the prosecutrix alone, entered the house and then caught hold of her and outraged her modesty by squeezing her breast.

5. Considering that presently, investigation is not complete and charge sheet has not been filed, without commenting on the merits of the case, the application, at this stage, is rejected with liberty to revive after filing of charge sheet.

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