

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.5151 of 2020

Vikki Lillhare S/o Shri Premchand Lillhare Aged About 27 Years R/o Near
Ram Janki Mandir, Ramehwar Nagar, Bhanpuri, Distt.- Raipur, (C.G.),
District : Raipur, Chhattisgarh **---- Applicant**

Versus

State Of Chhattisgarh Through Police Station Khamtarai, Distt.- Raipur,
(C.G.), District : Raipur, Chhattisgarh **---- Respondent**

For Applicant	:	Dr. Shailesh Ahuja, Advocate
For Respondent/State	:	Mr. Ravish Verma, G.A.
For Informant/father of prosecutrix	:	Mr. Birju Mahto

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

Order On Board

05/10/2020

Heard.

1. The applicant has been arrested in connection with Crime No.432 of 2019 registered at Police Station- Khamatarai, District Raipur (CG) for the alleged commission of offence under Section 363, 366, 376(3) of IPC and Section 4 & 6 of POCSO Act.
2. Case of the prosecution is that the applicant abducted the minor prosecutrix and she was taken to different places and it is also alleged that on the pretext of marriage, the applicant committed rape on the prosecutrix.
3. Learned counsel for the applicant argues that from the statement of the prosecutrix recorded by the police under Section 161 Cr.P.C. on more than one occasion as also from her statement and counselling report in proceeding drawn before the Child Welfare Committee, present is a case of love affair. He would also argue that it is the prosecutrix, who insisted the applicant, collecting money and jewelery from her home and insisting the applicant to go along with her stating that she was in love with the applicant and wanted to marry him. Next submission is that at this stage, the investigation is complete, charge-sheet has already been filed but the trial has not concluded and even prosecutrix has not been examined till date and

the applicant has remained in jail since 23.08.2019. Therefore, he may be granted bail, at this stage.

4. On the other hand, learned counsel for the State would submit that as per the charge-sheet and the evidence collected during investigation, date of birth of the prosecutrix is 20.06.2006 that means on the date, she had gone along with the present applicant, she was about 13 years of age. He would next submit that the medical report also supports the prosecution case that the prosecutrix was subjected to rape. He would further submit that looking to the nature and gravity of allegation of commission of offence of rape by the applicant on the prosecutrix, only on the ground of delay in trial, the applicant may not claim grant of bail.
5. Having considered the submission of learned counsel for the parties, particularly taking into consideration that the applicant is in jail since 23.08.2019 and more than 1 year has elapsed and till date, there does not appear to be any substantial progress in trial and particularly, till date, prosecutrix has not been examined by the trial Court, without commenting upon the merits of the case, only on the ground of long pre-trial detention of more than 1 year and in the background of the case, I am of the considered view that it would be appropriate to enlarge the applicant on bail. Accordingly, the bail 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 given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge