

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4885 of 2020

Bhagwati Tandon @ Bhaktu S/o Sushil Tandon Aged About 27 Years R/o Village Bade Jaraud, P. S. Bhatapara (Village) District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhatapara, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Praglbha Sharma, Advocate
For State	:	Shri Alok Bakshi, Addl. Advocate, General

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.117/2018 registered in Police Station -Pandri, District- Raipur (CG) for alleged commission of offence under Sections 363, 366, 376 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Case of the prosecution, in brief, is that the applicant abducted the prosecutrix and committed rape on her before and after marrying her. According to prosecution, at the time when the prosecutrix was abducted, subjected to sexual intercourse and marriage solemnized, she was minor being less than 18 years of age.
3. Learned counsel for the applicant would submit that the prosecutrix's statements both under Sections 161 & 164 Cr.P.C., clearly make out a case of affair followed by marriage. He would submit that according to prosecution, date of birth of the prosecutrix is 13.6.2000 and she attained majority on

13.6.2019. There are contradictory statements with regard to the date/dates on which sexual intercourse was committed. He would submit that at the time the FIR was lodged, it was only a missing report. Therefore, at this stage, the applicant may be granted bail.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that written report was lodged specifically naming the applicant and there are allegation of sexual intercourse in the year 2018 itself. Therefore, a prima facie case is made out against the applicant.
5. I have heard learned counsel for the parties. On prima facie considerations, it is found that according to prosecution case, both, the applicant and the prosecutrix went together which led to filing of missing report. According to the document of charge sheet/case diary, date of birth of the prosecutrix is 13.6.2000, meaning thereby that she attained majority on 13.6.2019. While there are allegations of sexual intercourse in statement under Section 161 Cr.P.C., there is no specific allegation of sexual intercourse in the statement under Section 164 Cr.P.C. recorded before the Magistrate and, therefore, a doubt has been created as to whether the prosecutrix was subjected to sexual intercourse before she attained majority or after she attained majority i.e. after 13.6.2019. Therefore, in the opinion of this Court, present is a fit case for grant of bail.
6. The application is accordingly allowed. 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.

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