

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5007 of 2020

Kamlesh Sahu S/o Shri Chandrika Sahu, Aged About 25 Years R/o Village Khauli, P.S. Kharora, District Raipur Chhattisgarh. (Not Mentioned In The Impugned Rejection Order Of The Learned Court Below), District : Raipur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Mandir Hasaud, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri C.R. Sahu, Advocate
For State	:	Shri Ravish Verma, Govt. Advocate

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

Order On Board

21/09/2020

Heard.

1. The applicant has been arrested in connection with Crime No.204/2019 registered in Police Station -Mandir Hasaud, District- Raipur (CG) for alleged commission of offence under Sections 363, 366, 376 (3) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Father of the prosecutrix namely Shri Triloki Verma, the Informant/ complainant in the case, is also present through Video Conferencing Help Desk.
3. Case of the prosecution, in brief, is that the applicant abducted and having performed marriage, subjected the prosecutrix to rape when she was minor, with the result that the prosecutrix became pregnant and gave birth to a child.

4. Learned counsel for the applicant would submit that from the statement of the prosecutrix, it is very clear that the prosecutrix and the applicant were having affair. He would submit that sexual intercourse, if any, is said to have been committed only after solemnization of marriage. He would further submit that the prosecutrix and her father have no objection to grant of bail. Therefore, at this stage, when trial has not completed and the applicant has remained in jail since 7.12.2019, he may be granted bail.
5. On the other hand, learned counsel for the State opposed the bail application by submitting that from the statement of the prosecutrix, it is prima facie borne out that at the time when the prosecutrix was subjected to sexual intercourse, due to which she became pregnant and gave birth to a child on 17.7.2019, she was even less than 15 years of age.
6. Father of the prosecutrix stated that he is willing to send the prosecutrix to the house of the applicant and he has no objection.
7. On prima facie considerations, it appears that the prosecutrix is said to be born on 24.11.2003. She gave birth to a child out of her relationship with the applicant, on 17.7.2019. That means she was subjected to sexual intercourse sometime in the month of October 2018. Thus, prima facie, it appears that at the time when she was subject to sexual intercourse, she was even less than 15 years of age. Therefore, on these prima facie considerations, I am not inclined to grant bail to the applicant.
8. The application is accordingly rejected.
9. However, in case trial does not commence/conclude within three months and the applicant completes one year of pre-trial detention, it would be open for the applicant to revive bail application on such ground.

Sd/-
(Manindra Mohan Shrivastava)
Judge