

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5249 of 2020**

- Niranjan Soni S/o Rajkumar Soni Aged About 26 Years R/o Village Kumhdai-Khurd, Post- Deobhog, Police Station- Deobhog, District- Gariyaband, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Deobhog, District- Gariyaband, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Mohammad Afroz Athar, Advocate.
For State	:	Mr. Ravish Verma, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****29/09/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.180/2020 registered at Police Station- Deobhog, District- Gariyaband, C.G. for the offence under Sections 363, 366 & 376(2) of IPC and Sections 4 & 6 of POCSO Act.
2. Prosecution case is that the applicant sexually exploited the prosecutrix and committed rape on her. According to the prosecution, prosecutrix is a minor.
3. Learned counsel for the applicant would argue that report as well as statement of the prosecutrix recorded under Sections 161 & 164 Cr.P.C. would reveal that present is a case of affair between the prosecutrix and the applicant and the applicant never abducted the prosecutrix but it was prosecutrix, who herself had voluntarily come out with the help of a common friend. It is also submitted that the applicant and the prosecutrix have married and started living as husband and wife. Learned counsel for the applicant also argues that material with regard to age, itself, is doubtful because there is discrepancy in the surname. He would also argue that trial is not likely to be concluded early and prosecutrix till date has not been examined. His further submission is that

the applicant is not a person of any criminal antecedent, therefore, at this stage, the applicant may be granted bail.

4. On the other hand, learned State Counsel opposes and submits that as per the school records during investigation, date of birth of the prosecutrix is 04.07.2003 thus the prosecutrix has not attained majority even till date. In her statement under Section 161 Cr.P.C., prosecutrix has stated that the applicant had committed sexual intercourse with her in 2017, against her wishes. He would also submit that the discrepancy in the records relating to date of birth is immaterial because everywhere the name of the father of the prosecutrix is one and the same.
5. Taking into consideration the submissions of learned counsel for the parties, particularly taking into consideration the material with regard to age of the prosecutrix, present is not a fit case for grant of bail.
6. The bail application is accordingly rejected. However, the applicant would be at liberty to revive the bail application in case trial is not commenced/concluded and the applicant completes one year of pre-trial detention.

Sd/-

(Manindra Mohan Shrivastava)
Judge