

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.5323 of 2020

Tejprakash Kurre S/o Bodhanlal Aged About 23 Years R/o Village-
Nandelibhata, Police Station Sakti, District- Janjgir Champa,
Chhattisgarh **---- Applicant**

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Sakti, District- Janjgir Champa, Chhattisgarh **---- Respondent**

For Applicant	:	Shri C.P. Lahrey, Advocate
For Respondent/State	:	Shri Ravish Verma, Dy. G.A.
For Informant/Objector	:	Shri Tarun Dadsena, Advocate

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

Order On Board

29/10/2020

Heard.

1. The applicant has been arrested in connection with Crime No.140 of 2020 registered at Police Station- Sakti, District Janjgir Champa (CG) for the alleged commission of offence under Section 376 of IPC and Section 4 & 6 of POCSO Act.
2. Prosecution case is that the applicant committed sexual intercourse with the prosecutrix continuously for a period of 3 years prior to date of lodging of written report.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated. The allegation of applicant continuously committing rape on the prosecutrix ever since of 13.04.2017 is false because the prosecutrix in her 161 Cr.P.C. statement has not made any such kind of allegation. He would next submit that the prosecutrix has only made a main statement regarding sexual intercourse on 23.03.2020 which is liable to be disbelieved as it is a case of false implication.

4. On the other hand, learned counsel for the State opposes the prayer and submits that as per the material available with the prosecution, date of birth of the prosecutrix is 05.03.2004 which means that even if it is assumed that only once sexual intercourse has taken place on 23.03.2020, the prosecutrix was definitely minor and therefore, consent is immaterial.
5. Learned counsel appearing for the Informant has serious objection to grant of bail.
6. Taking into consideration the submission of learned counsel for the applicant, particularly taking into consideration that the age of the prosecutrix was barely 16 years even on 23.03.2020, consent being immaterial, present is not a case for grant of bail. The bail application is therefore rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge