

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5849 of 2020**

- Bhunesh Prasad Marabi @ Bhuneshwawr Prasad S/o Shivprasad Marabi, Aged About 19 Years Caste - Gond, R/o Village - Haripur Juna Dhodhi, Chowki - Khadgawan, Tahsil - Pratappur, District - Surajpur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Station - Pratappur, District - Surajpur Chhattisgarh

---- Respondent

For Applicant	:	Shri D.N.Prajapati, Advocate
For Respondent	:	Shri Ravish Verma, Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****01/10/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.38/2020 registered at Police Station – Pratappur, District – Surajpur (C.G.) for alleged commission of offences under Section 363 and 366 of IPC with Section 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').
2. Prosecution case is that the applicant abducted the prosecutrix and kept her along with him until the prosecutrix, a minor, was recovered.
3. Learned counsel for the applicant would submit that the statement of the prosecutrix clearly show that the applicant and the prosecutrix are having an affair. He would submit that the prosecutrix had voluntarily accompanied the applicant. There is no allegation of commission of rape. Therefore, at this stage, when investigation is complete, charge sheet has been filed and applicant is in jail since 24/04/2020, he may be granted bail.
4. On the other hand, learned State counsel opposes prayer and submits that

from the records available in the vehicle papers and case diary, the age of the prosecutrix was less than 18 years when she was taken away by the applicant and kept along with him. Therefore, a *prima facie* case of commission of offence under Section 363 and 366 IPC and Section 12 of POCSO Act is made out.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the allegation is of abduction and there is no specific allegation of commission of rape on the prosecutrix, at this stage, when investigation is complete, charge sheet has been filed and the applicant is in jail since 24/04/2020, I am inclined to grant bail to the applicant.

6. Accordingly, the application is 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 Trial Court on the condition that -

- a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) He shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge