

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5641 of 2020**

- Neelkanth Sahu S/o Shri Tula Ram Sahu, Aged About 19 Years R/o Village Javaibandha, P.S. Abhanpur, District Raipur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Abhanpur, Raipur Chhattisgarh

---- Respondent

For Applicant	:	Shri Chakresh Tiwari, Advocate
For State	:	Shri Gagan Tiwari, Dy.Govt. Adv.
For Objector	:	Shri Parasram Sahu, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****09/10/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.10/2020 registered at Police Station – Abhanpur, District – Raipur (C.G.) for alleged commission of offences under Section 363, 366, 376 (2) of IPC and Section 4, 6 of the Protection of Children from Sexual Offences Act, 2012.
2. Prosecution case is that the applicant abducted and committed rape on the prosecutrix.
3. Learned counsel for the applicant would submit that no offence is made out against the applicant because the prosecutrix is not a minor but major. He submits that the prosecutrix has been examined in the Court and she has clearly stated that she had an affair with the applicant and sexual relation with him was consensual out of which, a child was also born. Learned counsel also submits that the prosecutrix and her mother both have examined in the Court and according to their statement, the age of the prosecutrix is more than 18 years. Therefore, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes prayer and submits that in the school records, date of birth of the prosecutrix has been recorded as 13/07/2003. Therefore, oral evidence of the prosecutrix and her mother leads to be vague against documentary evidence which is a matter of appreciation at the time of trial. He submits that the prosecutrix is a minor, therefore, consent is immaterial.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission with regard to the age of the prosecutrix and submission of learned counsel for the applicant that in the Court evidence, the prosecutrix and her mother have stated that the prosecutrix was major and not a minor and further taking into consideration that there is no objection to grant of bail on behalf of the informant and it is stated that they had not lodged the report, the application is allowed.

6. 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