

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5447 of 2020**

- Bhushan @ Goldi Sinha S/o Gourishankar Sinha, Aged About 23 Years, R/o Near of Samudaik Bhavan Gourinagar, Kotwali Police Station, District- Rajnandgaon, Chhattisgarh

---- Applicant

**Versus**

- State Of Chhattisgarh Through Kotwali Police Station, District- Rajnandgaon, Chhattisgarh

---- Respondent

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| For Applicant | : | Mr. Love Kumar Ramteke, Advocate. |
| For State     | : | Mr. Ravish Verma, G.A.            |
| For Objector  | : | Mr. Manu Lal Sahu, Advocate.      |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava****Order On Board****09/11/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.521/2018 registered at Police Station- Kotwali, District- Rajnandgaon, C.G. for the offence under Sections 376 & 506 of IPC and Sections 3, 4, 5 & 6 of POCSO Act, 2012.
2. Prosecution case is that the applicant committed rape on the prosecutrix. According to the prosecution, prosecutrix is a minor.
3. Learned counsel for the applicant would argue that the applicant has been falsely implicated in the case as, from the contents of the FIR as well as from the diary statement of the prosecutrix, it would be clear that the applicant and the prosecutrix had love affair and whatever happened including sexual intercourse, was with full consent of the parties. He would submit that in the present case, trial has not been concluded and in fact, even prosecutrix has not been examined till date and the applicant is in jail since 21.09.2018 that is more than two years by now. Therefore, on the ground of long pre-trial detention, the applicant may be granted bail.

4. On the other hand, learned State Counsel opposes and submits that the age of the prosecutrix is about 16 ½ years as per the school records filed along with charge sheet and DNA test has also been conducted which shows that the child born, has applicant and prosecutrix as the biological parents.
5. Learned counsel for the objector states no objection to grant of bail.
6. Taking into consideration the submissions of learned counsel for the parties, particularly taking into consideration that in this case the applicant has been arrested on 21.09.2018 and till date, there is no hope of early conclusion of trial and further that even prosecutrix has not been examined and the applicant has come out with strong case of consent and the issue revolve around the age of the prosecutrix, in the totality of the circumstances, pre-trial detention exceeding more than two years, It would be appropriate to enlarge the applicant on bail, I am inclined to grant bail to the applicant.
7. Accordingly, the bail 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 two local sureties of 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 in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

**Sd/-**  
**(Manindra Mohan Shrivastava)**  
**Judge**