

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5787 of 2020

Rajkumar Ekka S/o Chamak Ekka, Aged About 22 Years R/o Village -
Maharanipur, Police Station - Sitapur, Tehsil - Mainpat, District - Surguja
Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Kaapu, District -
Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Respondent

For Applicant	:	Ms. Saumya Sharma, Advocate
For State	:	Mr. Gagan Tiwari, Dy. Govt. Advocate

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

Order On Board

12/10/2020

Heard.

1. The applicant is arrested in connection with Crime No.42/2020 registered in Police Station -Kapu, District -Raigarh (CG) for alleged commission of offence under Sections 363, 366, 376 IPC and Section 6 of the Protection of Children from Sexual Offences Act 2012.
2. Case of the prosecution, in brief, is that the applicant abducted and committed rape on the prosecutrix who is stated to be less than 18 years of age.
3. Learned counsel for the applicant would submit that no offence can be said to have been committed because the prosecutrix has very clearly stated in her statement that she and the applicant were in affair and they left the house together and started living elsewhere. Sexual relationship, if any, have been only with the consent of both the parties and, therefore, looking to the level of maturity which the prosecutrix at the age of 17 years is supposed to

have, it cannot be said that there was anything against her wishes and without her consent.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that according to prosecution document, date of birth of the prosecutrix is 3.5.2003 which shows that on the alleged date when the prosecutrix was taken away by the applicant, she was minor and all through the period during which she was subjected to sexual intercourse, she was minor less than 18 years and, therefore, consent is immaterial.
5. Taking into consideration the submissions made by learned counsel for the parties, considering the material with regard to age of the prosecutrix and what she has stated in her statement under Section 164 Cr.P.C, preset is not a fit case for grant of bail.
6. The application is therefore rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge