

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6043 of 2020**

- Narayan Kumar S/o Chalitara Ram, Aged About 20 Years R/o Village Sarnadhih, P.S. Balrampur District Balrampur Ramanujan Chhattisgarh

---- Applicant**Versus**

- The State Of Chhattisgarh Through S H O, P.S. Balrampur, District Balrampur Ramanujan Chhattisgarh

---- Respondent

For Applicant	:	Shri A.K.Prasad, Advocate
For State	:	Shri Ravish Verma, Govt. Adv.
For Objector	:	Shri Santosh Kumar Pandey, Advocate for informant engaged through District Legal Services Authority, Balrampur.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****29/09/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.94/2020 registered at Police Station – Balrampur, District – Balrampur – Ramanujan (C.G.) for alleged commission of offences under Section 363, 366 and 376 (2) (a) of IPC and Section 4 and 6 of Protection of Children from Sexual Offences Act, 2012.
2. Prosecution case is that the applicant, on false pretext of marriage, entered into the house and subjected her to rape. The prosecutrix is stated to be a minor.
3. Learned counsel for the applicant would submit that from the FIR, diary statement, written complaint and statement under Section 164 CrPC of the prosecutrix, it is very clear that the applicant and the prosecutrix were in love with each other and there was no compulsion. Therefore, it is a clear case of consent. His next submission is that FIR has been lodged after a great delay of six months from the alleged first incident of sexual intercourse dated 12/12/2019. It is next submitted that the date of birth of the prosecutrix is not based on any clinching evidence and it is yet to be proved

that the prosecutrix is a minor. Therefore, prayer is made for grant of bail.

4. On the other hand, learned State counsel opposes prayer and submits that as per the school records, the date of birth of the prosecutrix is 13/01/2003 and she was minor and approximately 16 years of age on the date of incident. Therefore, consent is immaterial. He would further submit that in all statements, the prosecutrix has stated regarding sexual intercourse by the applicant.

5. Learned counsel for the objector opposes prayer for grant of bail on the submission that the prosecutrix is a minor. Therefore, bail may not be granted.

6. Considering the submission, particularly the material with regard to the age of the prosecutrix and her statement made under Section 164 CrPC before the Magistrate, no case for grant of bail is made out. The application is, accordingly, rejected.

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