

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5945 of 2020**

- Makardhwaj Das S/o Kanhaiya Das, Aged About 21 Years R/o Village Pikari, Thana Sarangarh, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Saraipali, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Respondent

For Applicant	:	Shri Vikash Pradhan, Advocate
For Respondent/State	:	Shri Dinesh Tiwari, Dy.GA
For Informant/Objector	:	Shri Bhupendra Kumar Bhoi, Advocate through Help Desk of District Legal Services Authority, Mahasamund

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****29/10/2020**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.30/2020 registered at Police Station Saraipali, District Mahasamund for the offence punishable under Section 363, 366, 376(2)(a) of the IPC and Section 4 & 6 of the POCSO Act . The applicant was arrested on 31-01-2020.
2. Prosecution case is that the present applicant abducted the prosecutrix, who is said to be minor in age and she was kept in his house and also subjected to rape.
3. Learned counsel for the applicant would argue that allegations against the present applicant are highly exaggerated. He submits that the prosecutrix statement recorded under Section 164 of Cr.P.C. before the Magistrate clearly shows that the prosecutrix and applicant were having affair. He would next submit that though, the prosecutrix states that she was resided with the applicant in his house along with his parents, but she denies that there was any

sexual intercourse committed on her by the applicant, therefore, offence under Section 376 of IPC is not made out. He lastly submits that when investigation is complete, charge sheet has been filed and the applicant is in jail since 31-01-2020, he may be granted bail.

4. On the other hand, learned counsel for the State/non-applicant as well as learned counsel for the Objector opposes the bail application by submitting that if prosecution case is looked into from the entire records, it is clear that at one point of time, the prosecutrix has levelled allegation of commission of offence of rape. It is also submitted that as per school records, the prosecutrix was barely 16 years of age and therefore, story of affair and consent is immaterial.

5. Taking into consideration the submission of learned counsel for the parties and the material disclosed by learned counsel for the parties, particularly taking into consideration the submission of learned counsel for the applicant that the prosecutrix in her statement recorded under Section 164 of Cr.P.C. before the Magistrate has not made any allegation of sexual intercourse against the applicant and she has emphatically denied the same and further taking into consideration that in this case, investigation is complete, charge sheet has been filed and the applicant is in jail since 31-01-2020, the present appears to be a fit case for grant of bail.

6. Accordingly, the application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with two local surety of the like amount to the satisfaction of the concerned trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

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